



REQUEST FOR PROPOSALS
December 28, 2016

DISPOSITION OF THE HORACE MANN SCHOOL
AMESBURY, MASSACHUSETTS



CITY OF AMESBURY
Mayor Ken Gray
Amesbury City Hall
62 Friend Street
Amesbury, Massachusetts 01913

Section 1: Legal Notice

Legal Notice
Horace Mann Disposition of Surplus Property
City of Amesbury, Mass
December 28, 2016

The City of Amesbury, at the direction of the Mayor, is soliciting responses from interested parties for the disposition, by sale, for proposed uses that are in accordance with the City of Amesbury Zoning regulations and any legislative limitations placed upon the property. Potential responders are encouraged to read the full set of documents for additional details. The property is located 10 Congress Street in Amesbury, MA, which consists of the former 15,300 square foot school building known as the Horace Mann School. This solicitation is being conducted in accordance with the provisions of Massachusetts General Laws, Chapter 30B, Section 16.

Pursuant to the Request for Proposals (RFP) Proposers are required to submit proposals to the Office of Community and Economic Development, 62 Friend Street, City Hall, Amesbury MA 01913 NO LATER THAN 12:00 noon, Thursday, February 9, 2017. Proposals received after this time will be rejected and returned unopened.

The RFP is available by pick-up, at the above address, during regular business hours Mon.-Wed. 8 am to 4 pm, Thur. 8 am to 7 pm, and Fri. 8 am to noon, excluding holidays. Or the RFP is accessible online at www.amesburyma.gov under News and Notes, OCED Proposals, Horace Mann Disposition. The RFP is not available by mail or email. Those obtaining the RFP at the above website must notify the City of the applicable contact person by sending an email to the address below. Questions regarding this project should be submitted in writing to William Scott at OCEDproposals@amesburyma.gov with the subject line "Horace Mann". Any questions regarding the RFP must be in writing and sent by email to the above email address no later than January 19 by 12:00 noon.

A formal site visit to the property will be held on January 12 at 10 am. Proposals are due to City Hall address 62 Friend Street in the date as cited above. All responses must be received in accordance with the RFP and prior to the deadline. The City reserves the right to reject any or all proposals when deemed to be in the best interest of the City.

Published:
Daily News December 30, and January 20, 2016 - Central Register December 28/2016.

2.0 INTRODUCTION

2.1 Authority

Pursuant to M.G.L. c. 30B, Section 16, the City of Amesbury seeks proposals for the disposition of certain real property (the “Property”) located at 10 Congress Street in Amesbury, MA, which consists of the former school building known as the **Horace Mann School** and contains 15,300 gross square feet in an existing building on a 0.52 acre lot, with an Amesbury Assessor’s Map ID of 54/ / 14/ /. The Mayor is the awarding authority for this transaction.

The purpose of this Request for Proposals (“RFP”) is to solicit proposals from qualified developers and to specify the terms and conditions applicable to the disposition. The Amesbury City Council has determined that the Property is surplus municipal property as defined in M.G.L. c. 30B and has authorized this disposition process. The Property is offered for sale. Lease proposals will not be accepted. The developer will be selected pursuant to the terms of this RFP, which specifies restrictions on the subsequent use of the Property.

After acquiring the Property, the successful Proposer will be required to construct improvements on the Property in accordance with the terms of this RFP and the Proposer’s approved proposal, as well as a Land Development Agreement. The successful Proposer will be required to obtain all necessary permits and approvals (e.g., from the Board of Appeals, Planning Board, Conservation Commission, Historical Commission etc.). The City of Amesbury cannot provide any guarantee that the proposed redevelopment proposal will be approved by these parties.

Proposers must meet all minimum evaluation criteria, must submit a complete proposal and price bid, and must include all requested documents. The City is not responsible for any errors or omissions herein.

3.2 Contents

This RFP includes a description of the Property and the City’s goals and objectives for its future use, instructions to Proposers and bid forms, and the following Exhibits:

- A. Locus Map
- B. Assessor’s Card
- C. The Vote to Surplus
- D. Various Reports and Studies

3.3 Definitions

Where the following words or phrases appear in this RFP, they shall have the meanings defined below:

Developer of Record (“Developer”): The Proposer designated by the City as the developer for the Horace Mann School.

Purchase and Sale Agreement: The Agreement executed by and between the Developer of Record and the City, setting forth the purchase price and payment schedule, the performance obligations of each party, and all terms and conditions of the sale, and any restrictions to be placed on the deed of

the Property on or before the date of closing. (Appendix A)

Land Development Agreement: The Agreement executed by and between the Developer of Record and the City, setting forth the obligations of the Developer of Record relative to the construction/redevelopment of the Project, the construction schedule, the events constituting a default and the remedies available to the City in the event the Developer of Record does not fulfill its obligations under the Land Development Agreement. (Appendix B)

Predevelopment Costs: Appraisals, surveys, development consultants, environmental testing, wetlands delineation, market or feasibility analysis, traffic studies, marketing materials, topographic mapping, preliminary architectural or engineering plans, historic preservation or archaeological studies, legal organization and/or titles.

Project: The disposition and development of the Horace Mann School for purposes authorized by the City pursuant to this RFP.

Proposer: The entity submitting a proposal in response to this RFP.

City: The City of Amesbury.

3.4 Property Tour and Briefing

It is strongly suggested that interested proposers have a representative present at a briefing session/site visit on the date and time cited in Section 1 above, at 10 Congress Street in Amesbury, MA. Failure to attend the briefing will not be an excuse for not submitting all of the required information herein.

3.5 Proposal Deadline

One original and ten (10) copies of the proposal must be delivered in a sealed envelope and/or package clearly labeled with the following:

Title: PROPOSAL FOR DISPOSITION OF HORACE MANN SCHOOL

From: Name and Address of Proposer

To:

Submission Deadline: As cited in Section 1 above. Proposals received after the submission deadline will be returned, unopened, to the sender. Email or facsimile submissions will not be accepted. If City Hall is closed at the time of the delivery deadline due to uncontrolled events, including, but not limited to, fire, wind, or building evacuation, the proposal due date will be postponed until 9:00 AM (Local Time) the next normal business day. Proposals will be accepted until that date and time.

The Proposals shall be opened in the City Hall Auditorium located at 62 Friend Street, Amesbury one hour following the due date and time cited in Section 1. At this time proposals shall be recorded, and each Proposer's name and offering price shall be read aloud.

All proposals require a deposit in the form of a certified check or money order made payable to the City of Amesbury in the amount equal \$5,000.

Amendments/Modifications/Withdrawal: Proposers may correct, modify or withdraw proposals, in writing, prior to the proposal submission deadline, but not thereafter. Corrections or modifications

must be submitted in a sealed envelope and clearly labeled as required for the original proposal. Any Proposer wishing to withdraw a proposal must provide a written authorization and/or acknowledgement that they are withdrawing their proposal and the City of Amesbury is held harmless from any responsibility as a result of the proposal withdrawal.

Addendum: Any Addendum(s) to the RFP will be posted online at the above location cited in Section 1. Those registering with the City will receive an email indicating the availability of the addenda. The City will not be notifying anyone who received a copy of the RFP from anyone other than the City. If it is impossible to notify all parties who received an RFP from the Office of Community and Economic Development of an Addendum prior to the deadline for submission, the City reserves the right to extend the deadline for submission through proper notice.

All proposals will remain in effect for a period of 120 calendar days from the submission deadline, or this RFP is cancelled, whichever occurs first.

In the case of a discrepancy on the Price Summary Form between written and numerical amounts, the written amount shall prevail.

3.6 Minimum Bid Price

The City has not chosen to set a Minimum Bid Price. The assessed value for the property \$881,600, the 2013 appraised value is \$145,000. .

3.7 General Conditions

- 3.7.1 The City reserves the right to reject any and all proposals when it is in the best interest of the City to do so. The City also reserves the right to waive minor discrepancies, to permit a Proposer to clarify such discrepancies, and to conduct interviews with all qualified Proposers in any manner necessary to serve the best interests of the City. The City further reserves the right to designate a Developer of Record based on written proposals received, without interviews, and to reject any and all proposals if deemed in the City's best interest to do so.
- 3.7.2 Any fees or other expenses associated with the RFP process are solely the responsibility of Proposers.
- 3.7.3 The City makes no representations or warranties, express or implied, as to the accuracy and/or completeness of the information provided in this RFP.
- 3.7.4 Each Proposer shall be responsible for investigating the condition of the Property and the City's title to the Property. The Mayor, City Council and City of Amesbury, and the City's employees, agents, representatives and contractors make no warranty or representation whatsoever as to the condition of the Property or its suitability for any particular purpose, or the title thereto.
- 3.7.5 Proposals shall be deemed to be public records within the meaning of M.G.L. c. 4, Section 7, as of the date and time of the bid opening, as required under M.G.L. c. 30B, Section 16.

3.8 Communications

All inquiries about this RFP, including requests for clarification or any additional information, must be submitted in writing to the email address and contact as cited in Section 1 above.

No requests or questions will be accepted after the deadline as cited in Section 1 above. The Proposer must provide the name, address, telephone number, and email address of the person to whom such additional information should be sent.

Responses to questions shall be issued in writing as an Addendum(s) to this RFP. No oral communications may be relied upon.

3.9 Access to City Records

Proposers seeking a copy of the Amesbury Zoning Ordinance may obtain it at the City of Amesbury's official municipal website at this link:

<http://www.amesburyma.gov/planning-board/files/zoning-bylaws>.

Requests for specific information about the Property should be directed in writing to the above email address for questions not to individual City departments. The City of Amesbury does not attest or certify to the accuracy of available data. Additional materials for this property are provided as attachments to this RFP.

4 DESCRIPTION OF THE PROPERTY

Location, Size and Improvements: The Property consists of land and an existing building, being the former Horace Mann School located at 10 Congress Street in the Congress/Monroe Street neighborhood. The lot size is 0.52 acres with 150 feet of frontage on Congress Street. The building is approximately 13,850 square feet of livable area and approximately 15,300 gross square feet. The Property has a Map ID of 54/ / 14/ /on the Amesbury Assessor's Maps. (Appendix C)

Ownership: The Property is owned by the City of Amesbury.

Zoning: The Property is located in an area zoned as Residential, R-8 Zoning District.

Buildings and Improvements: The Horace Mann School is a distinctive property for several reasons. Built in 1908, it is a remarkable historic property and a great example of crafts style of architecture in Amesbury. The character defining architectural features – slate hip roofs, solid wood frame construction, brick facades and bold window and door layout – make this property very attractive for historic redevelopment opportunities. Some of the key interior elements are still intact, including staircases and fireplaces. The modifications to the interior walls are minimal as the building has continually been used for educational purposes. (Appendix C)

Utilities: Electricity, natural gas, public water and sewer service are available at the site.

Current Use: The building is currently vacant and has a surplus approval. (Appendix C)

Surrounding Uses: The School is located in the dense residential neighborhood off of Congress Street and Elm Street. The neighborhood comprises of several multi-family residential structures as well as single family homes. This neighborhood is within walking distance of the Heritage Park and the bikepath along the Powow River. The Merrimack Valley Regional Transportation Center and the Amesbury Senior Center are also within walking distance from this neighborhood. There are some commercial properties along Elm Street including offices, convenience stores, restaurants and light manufacturing facilities. These add vitality to the residential neighborhood besides providing job opportunities. (Appendix C)

Plans: The Property has been owned by the City since the building was originally built. There are no official survey records or plans available and therefore the Proposer would also have to establish property boundaries and undertake legal and survey work to determine existing site conditions.

Environmental Issues: Given the age of the existing structure, it is likely that asbestos, lead paint and other potential contaminants or hazardous materials are present in the building or on site, however the City has no express knowledge of the environmental condition of the Property, and makes no representations or warranties in this regard.

Studies and Reports: Any studies or reports, to the knowledge of the City of Amesbury, conducted for the property are provided in Appendix D

5 PROJECT AND DEVELOPMENT OBJECTIVES

The Horace Mann School is a remarkable historic property and a great example of crafts style of architecture in Amesbury. Built in 1908, it is the sole surviving public school building that was in use up until it was taken out of public use by the City for disposition. The character defining architectural features – slate roofs, solid wood frame construction, brick facades and bold window and door layout – make this property very attractive for historic redevelopment opportunities. Given its proximity to the commercial hub and mixed-use properties, commercial uses, including professional office space, are potential re-use opportunities. Within the multi-family residential segment, specific housing types such as senior housing, assisted living, artist studios and a variety of other types would also be possible given its proximity to the City Center and easy access to services and outdoor recreational opportunities.

5.2 Acceptable Project Types

The City has a strong preference for two types of development proposals:

- a) Redevelopment of the existing building as a multi-family residential structure.
- b) Redevelopment of the existing building for mixed-uses with commercial/office uses on the first floor.

5.3 Development Objectives

The prevailing proposal must take into consideration the City's development objectives, which include:

- a) Rehabilitation of the Property, including preservation of existing structure, its historic architectural elements and character defining features.
- b) Redeveloping the Property in a manner that respects the interests of abutting residential property owners.
- c) Compliance with all applicable zoning ordinances of the City of Amesbury.
- d) Generation of revenue for the City, including, but not limited to, maximizing tax revenue for the City in connection with the Project.

6 INSTRUCTIONS TO PROPOSERS

6.2 Proposal Submission Requirements

Proposers must submit a complete proposal in order to be considered responsive to this RFP. Failure to complete the enclosed forms, to answer any questions, or to provide the required documentation will be deemed non-responsive and will result in rejection of the proposal, unless the City determines that such failure constitutes a minor informality as defined in M.G.L. c. 30B. A complete proposal shall include all of the following documents and shall be organized in the following manner. Tab dividers must match the tab letter designations in the RFP, and should appear in the order given in the RFP. (All forms are located in Appendix E)

Cover Letter with the following tabbed exhibits:

- Tab A. Proposal Form (Form 1)
- Tab B. Price Proposal Form (Form 2) (In a Separate Sealed Envelope)
- Tab C. Comparable Experience Form (Form 3)
- Tab D. Proposer's Qualifications Statement: A summary of the Developer's organization and experience; resumes of principals; a list of references for at least three recently completed projects in Massachusetts; a financial statement; and a disclosure of any liens, foreclosures, bankruptcies, or other actions that would interfere with construction financing or delay the timely progress of the project. Developers with prior experience acquiring and redeveloping municipally owned property must identify the project(s) and provide one or more references from the city or town from which the property was purchased. A written narrative should be provided to demonstrate the ability to perform as proposed along with prior experience relevant to the proposal. The resumes and relevant experience of the development team members for similar projects should also be included.
- Tab E. Technical Proposal: A conceptual site plan and building elevations of the Project proposed by the Developer, including preliminary specifications, unit (residential and/or commercial) amenities and finishes, landscaping plans, and parking plans, project amenities, EnergyStar qualifications, and other planned improvements to the Property, sufficient to clearly communicate the development proposal. The proposal should be sufficiently detailed to enable the City to understand the Proposer's plan for the Property, including, but not limited to, conceptual floor plans, number of units and uses, architectural renderings and proposed renovations, anticipated sale prices or rents and supporting rationale, narrative and data that demonstrate the Proposer's understanding of Amesbury's real estate market. A narrative should be included describing any proposed improvements that are not easily depicted on drawings. The written narrative should also provide sufficient information on any existing environmental assessment and potential remediation to determine impacts on redevelopment proposal. Sufficient information should be presented on the volume and type of traffic generated and any off-site improvements needed within public streets. The technical proposal shall account for the Proposal's Evaluation Criteria and all applicable provisions of this RFP that apply to the Development Team and the responsibilities of the Developer of Record.

- Tab F. Proposed Project Schedule (see Section 4.2 below)
- Tab G. Financial Qualifications Form (Form 4)
- Tab H. Certificate of Non-Collusion (Form 5)
- Tab I. Disclosure Statement for Transaction with a Public Agency Concerning Real Property, as required by M.G.L. c. 7C, Section 38 (Form 6)
- Tab J. Certification as to Payment of Taxes (Form 7)
- Tab K. Corporate Resolution, if a Corporation (Form 8)

Updated originals of the forms in Tabs J and K shall be executed and delivered by the Proposer at closing as a pre-condition thereto.

6.3 Project Documentation

The Proposer shall submit a Project Schedule that accounts for all major milestones for the Project, e.g., execution of Disposition Agreement, financing, permitting, design, closing, construction, marketing and sales, so that the Project shall be commenced and completed, and the residential/commercial units marketed, sold or rented and occupied as soon as possible.

A. Purchase and Sale Agreement

Not later than thirty (30) days from the date that the selected Proposer receives notice from the City that the proposal has been accepted, the Proposer must execute a Purchase and Sale with the City similar to that agreement in Appendix A. The Proposer by filing their proposals is certifying that they will accept the Purchase and Sale Agreement as provided in Appendix A. At the time the Purchase and Sale Agreement is executed, an additional deposit of ten percent (10%) of the purchase price, in the form of a certified check or money order, shall be payable to the City. The Purchase and Sale Agreement shall incorporate, at minimum, the terms and conditions cited in the document provided in Appendix A, and any items negotiated by the successful Proposer and the City's designated representative, provided such negotiated items are not inconsistent with this RFP. If the parties fail to execute a Purchase and Sale Agreement within thirty (30) days of notice of award, the City may select the next most beneficial offer. However, for good cause and when it is in the City's best interests to do so, the 30-day period for executing the Purchase and Sale Agreement may be extended subject to written approval by the City. Closing shall occur within thirty (30) days of receipt of all permits, including the expiration of any associated appeal periods. However, the closing shall not occur unless and until the Proposer has obtained suitable financing in an amount and form adequate, in the City's judgment, to complete the Project.

B. Land Development Agreement

The City and the selected Proposer shall, in connection with the Purchase and Sale Agreement, agree on the terms of a Land Development Agreement (LDA) (LDA as Provided in Appendix B) to govern

the construction and use of the Property. The LDA shall be recorded with the deed from the City to the successful Proposer, prior to any mortgages or other liens. The Proposer by filing their proposal is certifying that they will accept the Land Development Agreement as provided in Appendix B

The LDA shall incorporate the Developer's plan for the Property submitted with its RFP, and shall otherwise include, but not necessarily be limited to, the items required in the LDA provided in Appendix B.

7 PROPOSAL EVALUATION PROCESS AND REVIEW CRITERIA

All proposals received by the deadline will be considered in accordance with M.G.L. c.30B, Section 16 by the City. Only those proposals which satisfy the "Minimum Criteria for Responsible and Responsive Proposals" will be reviewed and ranked under the "Competitive Evaluation Criteria" below. Final designation of the Developer of Record will be made by the City, considering the criteria set forth below. Interviews with Proposers meeting the minimum evaluation criteria (or some subset of such Proposers selected by the Mayor and/or the Disposition Committee) may be conducted at the discretion of the City, and the City reserves the right to retain any consultants to assist with reviewing the proposals. Following the proposal review process, interviews and reference checks and receipt of any additional information requested of the Proposers, the City will identify the most beneficial proposal from a responsible and responsive Proposer. The City will notify all Proposers in writing of the decision.

7.2 Minimum Criteria for Responsible and Responsive Proposals

Proposals must meet the following minimum criteria to be considered responsible and responsive to this RFP:

- 7.2.1 The Proposal must be complete and conform to all submission requirements set forth in this RFP and any Addendum to this RFP issued before the submission deadline. Failure to provide the requested information in the proposal outlined in Section 4 will result in the determination that the proposal does not meet the minimum criteria.

7.3 Competitive Evaluation Criteria

Proposals meeting the minimum criteria for responsibility and responsiveness will be judged on the following competitive evaluation criteria:

- a) ***Building Reuse and Site Design***

- 7.3.1.1 Highly Acceptable: A proposal that consists of preserving the building and rehabilitating its various architectural and character defining elements consistent with historic standards and practices, re-use of the unique architectural features inside the building and incorporating

them into the unit design and floor plan layout, use of traditional building materials and universally accessible architectural design for the various uses. A detailed set of plans is included showing all unit types drawn to scale along with all elevations, architectural renderings, building and site amenities in sufficient detail that clearly explains the building design proposal. The landscaping plan should enhance the open areas on the site and provide sufficient privacy to abutting properties. The parking layout scheme will be sufficiently detailed with more parking along the side yards and with easy pedestrian access to the building from Congress Street. The streetscape shall be compatible with the residential character of the neighborhood.

- 7.3.1.2 Acceptable Rating: A proposal that preserves the existing building and its character defining features to the greatest extent possible and proposes minimal additions that are compatible with the architectural character of the building and are not visible from any public way. The site plan should include sufficient information on entrances and egresses, common areas, floor plans and typical unit plans, and elevations that clearly illustrate the development proposal. A narrative on the interior design objectives, building program by floor, typical finishes and any proposed improvements that are not easily depicted on drawings. The site plan should be fairly detailed to show open space, landscaping, screening and other site amenities.
- 7.3.1.3 Unacceptable Rating: A proposal will be considered unacceptable if it consists of demolishing all or a portion of the original building other than any incidental and incompatible additions that were made in recent years, alterations to the existing location and size of window and door openings, removal of character defining architectural features, use of building materials that are incompatible with the historical and architectural character of the building, changes to the existing roof profile. A proposal that does not include preliminary plans showing the interior floor plan layouts, typical unit layout, preliminary building elevations, landscaping plan, parking areas or if the Proposer does not include enough information to make a decision.

7.3.2 Proposer's Experience and Competency

- 7.3.2.1 Highly Acceptable: A proposal that identifies a Project Team with five (5) years or more experience in development consistent with the nature of the proposed Project and capable of completing the Project successfully and expeditiously, as demonstrated by the Proposer's track record in developing several high-quality developments, including but not limited to, rehabilitation of historic properties of similar scope and size, of two-family or condominium homes, or mixed residential uses, in the Greater Boston market; possess the necessary licenses and qualifications to perform the work; highly

favorable references for the Proposer and all members of the Project Team; and established working relationships between the Proposer and other members of the Project Team.

7.3.2.2 Acceptable Rating: A proposal that identifies a Project Team capable of completing the Project successfully and in a timely manner, as evidenced by the Proposer's previous experience and strength of the Proposer's references; demonstrates successful experience in rehabilitation and/or new construction for projects of a similar scope and size; and evidence of working relationships between the Proposer and other members of the Project Team.

7.3.2.3 Unacceptable Rating: A proposal with insufficient evidence of a Project Team with capacity to complete the Project successfully and in a timely manner, in the opinion of the evaluators; no experience with similar rehabilitation projects; or a proposal that does not include enough information for the evaluators to make a rating decision.

7.3.3 Financial Capacity

7.3.3.1 Highly Acceptable: A proposal that in the judgment of the evaluators identifies a Project Team with exceptional financial capacity to undertake the Project, proven by prior experience financing real estate development, including securing any necessary interim financing, ability to provide equity contribution, and ability to secure financing as evidenced by letter(s) from prospective lender(s) and other supporting material and provides a financial Pro forma outlining the total development costs, cash flow, sources of financing in sufficient detail to demonstrate the feasibility of the proposal.

7.3.3.2 Acceptable Rating: A proposal that in the judgment of the evaluators identifies a Project Team with reasonable financial capacity to undertake the Project.

7.3.3.3 Unacceptable Rating: A proposal that in the judgment of the evaluators fails to identify a Project Team with reasonable financial capacity to undertake the Project; or a proposal that does not include enough information for the evaluators to make a rating decision.

7.3.4 Proposed Development Schedule

- i) Highly Acceptable: A proposal that in the judgment of the evaluators identifies a Project Team with very detailed, short and achievable development schedule identifying all milestones, including but not limited to, pre-development assessment, permitting, construction phase, and final completion of the Project in 2 years or less from the date of award.
- ii) Acceptable Rating: A proposal that in the judgment of the evaluators identifies a Project Team with reasonably achievable development schedule and includes all of the major

milestones such that the Project is completed within 3 years from the date of award.

- 7.3.4.1 Unacceptable Rating: A proposal that in the judgment of the evaluators fails to identify a Project Team with a reasonable understanding of the various key milestones from start to finish; a Project Schedule that is in excess of 3 years from date of award or an impractical development schedule.

7.3.5 Proposed Price/Tax Revenue Generation

- i) Highly Acceptable: A proposal that in the judgment of the evaluators identifies a Project with the most beneficial technical proposal and the highest price proposal and which generates the maximum tax revenue for the City.

- 7.3.5.1 Acceptable Rating: A proposal that includes the minimum bid price and in the judgment of the evaluators will generate tax revenue for the City.

- 7.3.5.2 Unacceptable Rating: A proposal that in the judgment of the evaluators fails to generate any tax revenue for the City

7.4 Overall Rating

After evaluating a proposal on the above criteria, the evaluators will provide an overall ranking for the proposal as compared to other proposals. The evaluators will consider the Price Proposal in determining the reasonableness and advantageousness of the Proposer's offer. However, it is possible that a Proposer with a highly beneficial technical proposal will be designated the Developer of Record even if the Proposer's price proposal/tax revenue is not the highest bid received. A proposal that achieves "Highly Acceptable" and/or "Acceptable" ratings in most categories will not necessarily be disqualified simply because it received an "Unacceptable" rating in one category if, in the judgment of the evaluators, the proposal on the whole warrants a "Highly Acceptable" or "Acceptable" rating. However, any notice of award will be contingent upon the project proponent curing any "Unacceptable" rating prior to execution of the Purchase and Sale Agreement.

Appendix A: Purchase and Sale Template

PURCHASE AND SALE AGREEMENT

1. Information and Definitions

(a) DATE OF AGREEMENT: _____, 201__ (“Commencement Date”)

(b) PREMISES: A parcel of land with the improvements thereon located at _____ in Amesbury, Massachusetts, and described in a deed recorded with the Essex South District Registry of Deeds in Book _____, Page _____, and being Tax Map _____, Parcel _____.

(c) SELLER: **City of Amesbury**

Address: Amesbury City Hall, 62 Friend Street, Amesbury, MA 01913

Seller’s Attorney: Mark R. Reich, Esq.

Address: KP Law, P.C., 101 Arch Street, Boston, MA 02110

Phone: (617) 556-0007 Fax: (617) 654-1735

(d) BUYER:

Address:

Buyer’s Attorney:

Address:

Phone: Fax:

(f) CLOSING DATE: _____, 201__. Time is of the essence.

(g) PLACE: Essex South District Registry of Deeds (the “Registry”) at 11:00 a.m., or a closing by mail, at Seller’s election.

(h) TITLE: Quitclaim Deed

2. COVENANT. Seller agrees to sell and Buyer agrees to buy the Premises upon the terms hereinafter set forth.

3. BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES. Included in the sale as a part of the Premises are the buildings and fixtures belonging to Seller and used in connection therewith.

(a)

4. TITLE DEED. Said Premises are to be conveyed by a quitclaim deed running to Buyer, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except:

- (b) Provisions of existing building and zoning laws;
- 32. (b) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed, except as provided in Section 12;
- 33. (c) Any liens for municipal betterments assessed after the date of this Agreement;
- 34. (d) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the proposed use of said Premises for _____ purposes; and
- 35. (e) Terms and provisions of a Land Development Agreement, attached hereto as Exhibit A, requiring the Premises to be developed as at _____ (the "Development"), which Agreement shall govern the development and future use of the Premises.

5. PURCHASE PRICE. The agreed purchase price for said Premises is the conveyance to Seller of _____ Thousand Dollars (\$ _____), of which:

- 36. \$ _____,000.00 was paid by Buyer as proposal security;
- \$ _____ shall be paid today which, together with the proposal security, shall constitute the deposit under this Agreement; and
- 37. \$ _____ are to be paid at the time of delivery of the deed by certified
- 38. _____ or bank check or by wire transfer, at Seller's discretion.
- 39. \$ _____ TOTAL

6. PLANS. If said deed refers to a plan necessary to be recorded therewith Buyer shall, at its sole cost and expense, prepare a survey plan in form adequate for recording or registration.

7. POSSESSION AND DELIVERY OF PREMISES. Full possession of said Premises free of all tenants and occupants, except as herein provided, is to be delivered at the time of the delivery of the deed, said Premises to be then (a) in the same condition as they now are, reasonable use and wear thereof and damage by casualty excepted, and (b) in compliance with provisions of any instrument referred to in Section 4 hereof. Buyer shall be entitled personally to inspect said Premises prior to the delivery of the deed in order to determine whether the condition thereof complies with the terms of this Section.

8. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM.

40. If Seller shall be unable to give title or to make conveyance, or to deliver possession of the Premises in accordance with Section 7 above, all as herein stipulated, or if at the time of the delivery of the deed the Premises do not conform with the provisions hereof, then any payments made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto, unless Seller elects, in its sole discretion, to use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said Premises conform to the provisions

hereof, as the case may be, in which event Seller shall give written notice thereof to Buyer at or before the time for performance hereunder. In no event, however, shall reasonable efforts require Seller to expend more than \$1,000.00, including attorneys' fees. Seller's obligations hereunder are subject to the availability and appropriation of funds to fulfill Seller's obligations.

(c)

9. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM. If at the expiration of the extended time Seller shall have failed so to remove any defects in title, deliver possession, or make the Premises conform, as the case may be, all as herein agreed, then any payments made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto.

(d)

10. BUYER'S ELECTION TO ACCEPT TITLE. Buyer shall have the election, at either the original or any extended time for performance, to accept such title as Seller can deliver to the said Premises in their then condition and to pay therefore the purchase price, without deduction, in which case Seller shall convey such title.

(e)

11. ACCEPTANCE OF DEED. The acceptance of a deed by Buyer shall be deemed to be a full performance and discharge of every Agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed.

(f)

12. ADJUSTMENTS. A payment in lieu of taxes shall be paid in accordance with G.L. c. 44, §63A, as of the day of performance of this Agreement and the net amount thereof shall be added to the purchase price payable by Buyer at the time of delivery of the deed.

(g)

13. DEPOSIT. All deposits made hereunder shall be held in escrow by the City Treasurer, as escrow agent, in a non-interest bearing account, and shall be duly accounted for at the time for performance of this Agreement. In the event of any disagreement between the parties, the escrow agent may retain all deposits made under this Agreement pending instructions mutually given by Seller and Buyer.

(h)

14. BUYER'S DEFAULT; DAMAGES. If Buyer shall fail to fulfill Buyer's agreements herein, all deposits made hereunder by Buyer shall be retained by Seller as Seller's sole and exclusive remedy at law and equity for Buyer's breach of this Agreement. The parties acknowledge and agree that Seller has no adequate remedy in the event of Buyer's default under this Agreement because it is impossible to exactly calculate the damages which would accrue to Seller in such event. Therefore, acknowledging this fact, the parties agree that: (i) the deposit hereunder is the best estimate of such damages which would accrue to Seller in the event of Buyer's default, (ii) said deposit represents damages and not a penalty against Buyer, and (iii) the parties have been afforded the opportunity to consult an attorney with regard to the provisions of this Section.

(i)

15. LIABILITY OF SHAREHOLDER, TRUSTEE, FIDUCIARY. If Seller or Buyer executes this Agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither Seller nor Buyer so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

(j)

16. BROKERS. Buyer and Seller each represents and warrants to the other that each has not contacted any real estate broker in connection with this transaction and was not directed to the other as a result of any services or facilities of any real estate broker. Buyer and Seller agree to defend, indemnify the other against and hold the other harmless, to the extent permitted by law, from any claim, loss, damage, costs or liabilities for any brokerage commission or fee which may be asserted against the other by any broker in connection with this transaction. The provisions of this paragraph shall survive the delivery of the deed.

17. TITLE INSPECTION. Buyer agrees to have the record title to the Premises examined and to cause a title insurance company licensed to do business in Massachusetts issue a commitment for an owner's title insurance policy in an ALTA form at normal premium rates with respect to the Premises and to furnish a copy of the same to Seller by 5:00 p.m. on _____, which date is _____ (_____) days from the Commencement Date (the "Inspection Period"). The foregoing obligation of the Buyer to secure a commitment for title insurance shall not be construed as requiring Seller to satisfy any of the title conditions or requirements for the issuance of the policy or to correct any of the exceptions shown in such commitment, but is merely being furnished to Seller to apprise Seller of defects in title to the Property as of the effective time and date of the commitment and the requirements for the issuance of the policy. If the facts disclosed in the policy are inconsistent with the provisions of Section 4 of this Agreement (quality of title), Seller may elect to cure said defect as provided in Section 8 of this Agreement. If Buyer fails to raise objection as to any and all title matters on or before the close of the Inspection Period, in writing to the Seller, then Buyer shall be deemed to have waived all objections to such matters as of the effective date of the commitment. Buyer shall be entitled to have a title update through the time for performance of this Agreement to confirm that the status of the title has not changed since the date of the title commitment.

(k)

18. CONTINGENCIES. Buyer's and Seller's obligations to close are subject to the satisfaction at or before the closing of all of the following conditions:

(l)

(a) Authorization of the disposition of the Premises on the terms set forth herein by the Amesbury City Council (if necessary);

(b) Buyer shall have complied with the disclosure provisions of G.L. c. 7C, §38, and Seller and Buyer agree to diligently pursue full compliance with said statute. Seller shall prepare and file all required statements;

(m)

(c) Compliance with the provisions of G.L. c. 30B, §16;

(d) Buyer shall have obtained financing to enable the _____ of the Development, as evidenced by a commitment letter with contingencies acceptable to both Seller and Buyer. At least thirty (30) days prior to Closing, Buyer shall submit a proposed financing structure to Seller. Seller may object to the financing structure on reasonable grounds, including, but not limited to: (i) the commitment letter does not provide sufficient funds for completion of the Development; (ii) the financing does not provide for a performance bond or letter of credit to ensure completion of the Development; and (iii) failure of

the financing to be from a financing source of commercially reasonable repute for projects of similar size and character. If Seller objects to the financing proposed by the Buyer, Seller and Buyer will each propose a professional to review the proposed financing structure. If such professionals disagree, they will choose a third professional, and the decision of such third professional shall be final, provided that if such proposed financing is not approved, Buyer shall have the option to provide up to three additional alternative structures to be reviewed in a similar manner and consistent with the terms hereof. If no proposed financing structure is presented to the Seller, or if all proposed financing structures are rejected by such professionals, this Agreement shall be null and void, but the Seller shall retain the deposit;

- (e) Buyer shall have, at its sole cost and expense, prepared site plans and elevation plans for the Development, which plans shall be consistent with the plans and sketches submitted with the proposal submitted to the Seller by the Buyer in response to the Request for Proposals issued by the City of Amesbury for the Premises, as such plans may be revised through negotiation between the Seller and Buyer, such plans to be submitted to those boards and officers issuing permits and approvals reasonably necessary for renovation/construction of the Development;
- (f) Buyer shall have obtained all permits and approvals necessary to undertake the renovation/construction of the Development, and the period of appeal under each of such permits and approvals shall have expired without appeal by a third party or, if appealed, such appeal shall have been successfully resolved in the reasonable determination of the Buyer. Seller agrees to execute any and all applications for such permits and approvals as may be required by governmental authorities due to the Seller's ownership of the Premises. Seller cannot represent that any permit or approval will be forthcoming from any board or officer that has a role in reviewing and granting any such permit or approval; and
- (n)
 - (g) Compliance with any other requirements of the Massachusetts General or Special Laws relative to the sale of property by Seller.

If the contingencies are not satisfied by _____, 201__, this Agreement shall terminate, and Buyer shall receive a refund of the deposit, unless said failure is due to a lack of due diligence or commercially reasonable practices on the part of Buyer with respect to (d), (e) or (f) of this Section 18.

(o)

19. AS-IS. Buyer acknowledges that Buyer has not been influenced to enter into this transaction and that it has not relied upon any warranties or representations not set forth in this Agreement. Buyer represents and warrants that it or its agents have conducted a full inspection of the Premises, and based upon Buyer's investigation, Buyer is aware of the condition of the Premises and will accept the Premises "AS IS," subject to Buyer's right to terminate this Agreement under Section 21. Buyer acknowledges that Seller has no responsibility for hazardous waste, oil, hazardous material or hazardous substances, as those terms are defined by

any applicable law, rule or regulation, including, without limitation, the Massachusetts Oil and Hazardous Materials Release Prevention and Response Act, G.L. c. 21E, the Massachusetts Hazardous Waste Management Act, G.L. c. 21C, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq. (herein collectively referred to as “Hazardous Materials”) on, in, under or emitting from the Premises or for any other condition or defect on the Premises.

20. PROPERTY INSPECTION. During the Inspection Period, Buyer and Buyer’s agents shall have the right, to enter the Premises, upon no less than forty-eight (48) hours written notice to Seller, at Buyer’s own risk, for the purposes of inspecting the Premises, provided that Buyer shall not conduct any subsurface tests without Seller’s prior written consent, not to be unreasonably withheld. Buyer shall defend, indemnify and hold Seller harmless against any claim by Buyer or Buyer’s agents, employees or invitees for any harm to them arising from said entry and shall restore the Premises to substantially the same condition as prior to such entry if the closing does not occur. Buyer shall obtain comprehensive liability insurance, including coverage for bodily injury, wrongful death and property damage, in the minimum amount set forth herein to support the obligations of Buyer under the terms and conditions of this Agreement to indemnify, defend and hold harmless Seller: General Liability: \$1,000,000.00/occurrence, \$2,000,000.00/aggregate; Bodily Injury Liability: \$1,000,000.00/occurrence, \$2,000,000.00/aggregate. The insurance coverage required hereunder shall be issued by insurance companies licensed in Massachusetts and having a Best’s rating of A- or better. Prior to entering the Premises, Buyer shall provide Seller with a copy of such insurance policy in each case indicating Seller is an additional insured on the policy and showing compliance with the foregoing provisions. In the event Buyer finds Hazardous Materials on the Premises in quantities that must be reported to the Department of Environmental Protection under the provisions of G.L. c. 21E or the regulations thereunder, and informs Seller prior to the expiration of the Inspection Period, this Agreement shall be null and void and without recourse to the parties, unless Seller, at Seller’s sole option, gives written notice to Buyer within thirty (30) days of receiving Buyer’s notice of its intention to remediate such contamination and thereafter remediates such Hazardous Materials in compliance with applicable law, with Seller paying all of the costs of remediation. Nothing herein shall require Seller to remediate any contamination on or make any improvements to the Premises.

21. CONDITION OF PREMISES. Seller agrees to deliver the Premises at the time of delivery of Seller’s deed in a condition substantially similar to its condition at the time of the signing of this Agreement, removing all Seller’s personal property therefrom which is not being sold to Buyer, or left for its benefit, as consented to by it. Seller shall at closing deliver to Buyer all keys to the Premises that are in Seller’s possession.

(p)

22. CASUALTY; CONDEMNATION. Notwithstanding anything herein to the contrary, in the event that all or a substantial part of the Premises is damaged or destroyed by fire, vandalism or other casualty (and such fire, vandalism or other casualty is not the result of the negligence of Buyer, or its agents, employees, contractors and invitees), or in the event of a taking of all or substantially all of the Premises by eminent domain by an entity other than Seller, Seller or Buyer may, at its option, terminate this Agreement, whereupon all deposits made by Buyer under this Agreement shall be returned. “Substantial part” shall be defined as that portion

of the Premises which if damaged or taken by eminent domain would materially and adversely affect the use of the Premises for the purposes set forth herein.

(q)

23. ASSIGNMENT. Except as provided in this Agreement, Buyer shall not assign this Agreement or any of its rights hereunder without prior written consent of Seller, which may be withheld in Seller's sole and absolute discretion, except that Buyer may assign this Agreement to a nominee created by Buyer for the purpose of acquiring title to the Premises and the Buyer is an officer or manager thereof.

(r)

24. TITLE OR PRACTICE STANDARDS. Any matter or practice arising under or relating to this Agreement which is the subject of a title standard or a practice standard of the Real Estate Bar Association of Massachusetts at the time for delivery of the deed shall be covered by said title standard or practice standard to the extent applicable. It is understood and agreed by the parties that, without limitation, the Premises shall not be in conformity with the title provisions of this Agreement unless:

- (a) No building, structure or improvement of any kind belonging to any person or entity encroaches upon or under the Premises from other premises;
- (b) Title to the Premises is insurable, for the benefit of Buyer, by a title insurance company acceptable to Buyer, in a fee owner's policy of title insurance at normal premium rates, in the American Land Title Association form currently in use;
- (s)
- (c) All structures and improvements and all means of access to the Premises shall not encroach upon or under any property not within the lot lines of the Premises; and
- (t)
- (d) The Premises shall abut a public way, duly laid out or accepted as such by the municipality in which the Premises are located, or have the benefit of a valid easement leading to public ways.

25. CLOSING. The deed and other documents required by this Agreement are to be delivered and the Purchase Price paid at the Date and Time of Closing and at the Place of Closing. Unless the Closing takes place at the appropriate Registry of Deeds, all documents and funds are to be delivered in escrow subject to prompt rundown of title and recording, which term shall include registration in the case of registered land.

26. BUYER'S WARRANTIES. Buyer hereby represents and warrants:

- (a) This Agreement and all documents to be executed by Buyer and delivered to Buyer at the closing are, or at the time of the closing will be, duly authorized, executed and delivered by Buyer.
- (b) Buyer hereby acknowledges and agrees that, except for the representations and warranties of Seller expressly set forth in this Agreement, Buyer has not relied upon nor been induced by any representations, warranties, guarantees, promises or statements, whether written or oral, express or implied, or whether made by Seller or any employee or representative of Seller.

27. NOTICE. Any notice required or permitted to be given under this Agreement shall be in writing and signed by the party or the party's attorney or agent and shall be deemed to have been given: (a) when delivered by hand, or (b) when sent by Federal Express or other similar courier service, or (c) when mailed by certified mail, return receipt requested, or (d) upon confirmed facsimile transmission (provided such facsimile notice is promptly followed by other acceptable means of sending notice), addressed to the party and the party's attorney at the addresses set forth in Section 1. By such notice, either party may notify the other of a new address, in which case such new address shall be employed for all subsequent deliveries and mailings.

28. SELLER DEFAULT. In the event that Seller defaults under this Agreement, Buyer shall be entitled to terminate this Agreement and receive a refund of the deposit. The foregoing shall be Buyer's sole and exclusive remedy at law and in equity for any breach of this Agreement by Seller.

(u)

29. COOPERATION. Seller agrees to use reasonable efforts to assist Buyer in obtaining any and all permits, licenses, easements and other authorizations required by any governmental authorities with respect to any construction or other work to be performed on the Premises, all at Buyer's cost, but Buyer acknowledges that Seller has no control over and cannot guarantee that permits required from municipal boards or officers within their statutory or regulatory authority will be granted or fees waived.

30. POST-CLOSING COMPLIANCE AND ADJUSTMENTS. If any errors or omissions are found to have occurred in any calculations or figures used in the settlement statement signed by the parties (or would have been included if not for any such error or omission) and notice hereof is given within six (6) months of the date of the delivery of the deed to the party to be charged, then such party agrees to make a payment to correct the error or omission. This provision shall survive delivery of the Deed.

(v)

31. EXTENSIONS. Buyer and Seller hereby authorize their respective attorneys (as the case may be) to execute on their behalf any extensions to the time for performance and any change of location and/or time for delivery of the deed. Buyer and Seller shall be able to rely upon the signature of said attorneys as binding unless they have actual knowledge before the execution or other consent to such extensions, that either party has disclaimed the authority granted herein to bind them. For purposes of this Agreement, facsimile signatures shall be construed as original.

(w)

32. CONSTRUCTION. This instrument is to take effect as a sealed instrument, sets forth the entire contract between the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be canceled, modified or amended only by a written instrument executed by both Seller and Buyer. If two or more persons are named herein as Buyer their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this Agreement or to be used in determining the intent of the parties to it.

(x)

33. GOVERNING LAW. This Agreement shall be governed exclusively by the provisions of the laws of the Commonwealth of Massachusetts, and any actions, suits or other claims pertaining or relating to this Agreement shall be brought within the courts of Massachusetts.

[Signature Page Follows]

In Witness Whereof, the parties sign this Agreement under seal as of this _____
day of _____, 201__.

41.

51.

42. SELLER:

52. BUYER:

43.

53.

44. CITY OF AMESBURY

45.

46.

47. By:

54.

48. Its Mayor

49.

50.

55.

56.

57.

58.

59.

567113/AMES/0001

Appendix B: Land Development Agreement Template

LAND DEVELOPMENT AGREEMENT

_____, Amesbury, Massachusetts

PARTIES

THIS LAND DEVELOPMENT AGREEMENT (this "Agreement"), dated as of this _____ day of _____, 201____, is made by and between the **City of Amesbury**, a Massachusetts municipal corporation, acting by and through its Mayor, with an address of 62 Friend Street, Amesbury, Massachusetts 01913 (hereinafter, referred to as the "City"), and _____, a Massachusetts corporation/limited liability company, with an address of _____, Massachusetts _____ (hereinafter, referred to as the "Developer").

RECITALS

WHEREAS, the City, as owner of a certain parcel of land, upon which is located the former _____ (the "Building"), issued a Request for Proposals, dated _____, 201____ (the "RFP"), for the disposition of the real property described in the deed from the City to the Developer recorded immediately prior hereto (the "Deed") and shown on the plan entitled "_____" dated _____, 201____, recorded with the Essex South District Registry of Deeds in Plan Book _____, Plan _____ (including appurtenant easements, if any, the "Property");

WHEREAS, the Developer submitted a proposal in response to the RFP, dated _____, 201____ (the "Proposal"), for a _____ development, located upon the Property (the "Development");

WHEREAS, the City, for consideration of _____ and 00/100 (\$_____,000.00) Dollars, and other consideration as set forth in this Agreement, conveyed the Property to the Developer subject to this Land Development Agreement;

WHEREAS, the Proposal calls for the Developer to demolish/renovate the Building, and construct on the Property _____, consisting of approximately _____ square feet of _____, as more particularly described in this Land Development Agreement (the "Project"); and

WHEREAS, the Developer, in consideration for the Property, agrees to develop the Property and undertake all the work that is required to be done under this Agreement to construct, develop and complete the Project (the "Work").

NOW, THEREFORE, each of the parties hereto for and in consideration of the promises and mutual obligations herein contained, does hereby covenant and agree with the other as follows:

AGREEMENT

I. RECITALS

The Recitals stated above are true and accurate and are incorporated herein by reference.

II. DEVELOPMENT AGREEMENT

Developer agrees (for itself and any successors and assigns) to develop the Property and undertake the Project as follows:

A. Construction Obligations

1. Construction of Project: The Developer shall design, renovate and/or construct on the Property the following improvements:

(a) *Building*: _____ (the "Building"), to be constructed in accordance with the Approved Plans, as hereinafter defined; and

(b) *Parking*: that number of parking spaces adequate to serve the Development, pursuant to the requirements of the Amesbury Zoning Ordinance.

2. Approved Plans: the Project shall be constructed in accordance with the site plans and elevation plans that have been approved by the Planning Board (the "Approved Plans"), reduced-size copies of which are attached hereto as Exhibit A and incorporated herein. The Developer agrees not to make any substantial change or revision to the Project as shown on the Approved Plans, including, without limitation, any changes to the Building, parking and landscaping of a temporary or permanent nature during the course of construction unless such changes are approved by the Planning Board. Nothing herein shall be deemed to waive the Developer's obligations to apply for and comply with all other permits, approvals and conditions governing the Property or the Project.

3. Construction Schedule: the Developer shall:

(a) apply for building permit(s) for construction of the Project within _____ months following the date of this Agreement;

(b) commence construction of the Project pursuant to the building permit(s) issued by the City within _____ months following issuance thereof;

(c) construct the Project in accordance with the construction schedule (the "Construction Schedule"), attached hereto as Exhibit B and incorporated herein; and

(d) substantially complete the Project in accordance with the terms of this Agreement within _____ months following the date of this Agreement. The Project shall be "Substantially Complete," or "Substantial Completion" shall occur, when the Project has been constructed such that Developer has obtained certificates of occupancy for the Building, with only minor "punch list" items remaining, in the City's reasonable discretion, that will not materially interfere with the use and occupancy of the Project.

4. Construction Schedule Extensions: The City, at its sole option, may extend these deadlines if the City determines that the Developer has proceeded with reasonable diligence in its performance under this Agreement. The City shall reasonably extend the deadlines under this Agreement for "Unavoidable Delays" and other events beyond the control of the Developer. For purposes of this Agreement, "Unavoidable Delays" shall mean any delay, obstruction or interference resulting from any act or event whether affecting the Project or the Developer, which has a material adverse effect on the Developer's rights or duties, provided that such act or event is beyond the reasonable control of the Developer after pursuing all diligent efforts to remedy the delaying condition in an expedient and efficient manner and was not separately or concurrently caused by any negligent or willful act or omission of the Developer or could not have been prevented by reasonable actions on the Developer's part and the Developer shall have notified the City herein not later than thirty (30) days after discovering the occurrence of the Unavoidable Delay enumerated herein and within a reasonable time, including but not limited to, delay, obstruction or interference resulting from: (i) an act of God, landslide, lightning, earthquake, fire, explosion, flood, sabotage or similar occurrence, acts of a public enemy, war, blockage or insurrection, riot or civil disturbance; (ii) any legal proceeding commenced by any party seeking judicial review of this Agreement or any governmental approvals, or any restraint of law (e.g., injunctions, court or administrative orders, or moratorium imposed by a court, or administrative or governmental authority); (iii) the failure of any utility or governmental entity required by law to provide and maintain utilities, services, water lines and power transmission lines to the Property, which are required for the construction of the Project or for other obligations of the Developer; (iv) any unexpected or unforeseen subsurface condition at the construction site inconsistent with typical background conditions of a similar site, which shall prevent construction, or require a material redesign or change in the construction of, or materially adversely affect the completion schedule for, the Project, such determination to be made by a qualified engineer; (v) any unexpected or unforeseen subsurface environmental conditions on or from or otherwise affecting the Property but not readily identifiable by visual inspection and which originated from the Building or Property; (vi) strikes, work stoppages or other substantial labor disputes; (vii) the failure or inability of any subcontractor or supplier to furnish supplies or services if such failure or inability is itself caused by an Unavoidable Delay and/or could not have been reasonably prevented and the affected party cannot reasonably obtain substitutes therefore; (viii) any unreasonable delay which is caused or created by a board or officer of the City from whom a Project approval is sought, whether or not such fault is caused by negligent or willful acts or omissions, provided that the Developer shall have timely complied with the reasonable requests and requirements of any governmental authority. The time or times for performance under this Agreement shall be extended for the period

of the Unavoidable Delay, and in calculating the length of the Unavoidable Delay, there shall be considered not only actual work stoppages but also any consequential delays resulting from such stoppages.

5. Quality of Work: The Developer shall procure all necessary permits before undertaking any Work, and shall cause all the Work to be performed in a good and competent manner in compliance with good engineering and construction practices, and using new materials of customary quality in the greater Amesbury area similar to the Project, all in accordance with the Approved Plans and all applicable laws, ordinances, codes, regulations, permits, approvals and conditions. The Developer shall take all reasonably necessary measures to (i) minimize dust, noise and construction traffic, (ii) minimize any damage, disruption or inconvenience caused by the Project, and (iii) make adequate provision for the safety and convenience of all persons affected thereby and to police the same. Dust, noise, lighting and other effects of the Project shall be controlled using commercially reasonable methods with the understanding that such matters while they will be reasonably mitigated cannot be eliminated completely in any construction project. As a precondition for the issuance of any Certificate of Occupancy for a Building, the Developer shall provide a certification to the City by the architect identified in Section B.6, at the Developer's expense, that the Work is done substantially in accordance with the Approved Plans.

6. Liens: The Developer shall not permit any mechanic's liens or similar liens to remain upon the Property for labor and materials furnished to the Developer in connection with work of any character performed at the direction of the Developer and shall cause any such lien, if it shall become perfected, to be released of record without cost to the City, by satisfaction and discharge of such lien or protection and surety against such lien by bond, unless otherwise provided in this Agreement or agreed by the City in writing.

7. Certificate of Substantial Completion:

(a) Promptly after "Substantial Completion" of the Project as defined in Section II.A.3.d above, the City will furnish the Developer with an appropriate instrument so certifying (the "Certificate of Substantial Completion"). The Certificate of Substantial Completion shall be in such form as will enable it to be recorded in the Essex South District Registry of Deeds.

(b) If the City shall refuse or fail to provide the Certificate of Substantial Completion in accordance with the provisions of this Section, the City or a representative of the City shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in what respects the Developer has failed to complete the improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such certification.

(c) Notwithstanding anything to the contrary in this Agreement, the Certificate of Substantial Completion, issued by the City pursuant to Section II.A.7.a, above, shall be a conclusive determination of satisfaction and termination of this Agreement and covenants in this Agreement, except those that expressly survive the issuance of the Certificate of Substantial Completion. Any such certification shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any Funding Source, including any Mortgage Holder or any insurer of a mortgage securing money loaned to finance the improvements, or any part thereof. The issuance of the Certificate of Substantial Completion shall bar the exercise of any remedies by the City set forth in this Agreement, except those that expressly survive the issuance of the Certificate of Substantial Completion.

B. Financial Obligations

1. Financing: The Developer has obtained funds sufficient to purchase the Property and to construct and complete the Project from one or more lenders or mortgage holders or other funding, equity and other financing sources as set forth in Exhibit C attached hereto and incorporated herein (singularly a “Funding Source” and collectively the “Funding Sources”), secured by one or more mortgages, deeds of trust or other instruments creating an encumbrance or lien upon the Property to be recorded hereafter and including as the same may be refinanced, subject to paragraph 2 below, (the “Mortgage(s)”). The holder(s) of the Mortgage(s), which shall include any insurer or guarantor of any obligation or condition secured by any Mortgage, is (are) referred to herein as the “Mortgage Holder(s)” and the holder of a first mortgage lien upon the Property is referred to herein as the “First Mortgage Holder.” The Developer agrees to pay all amounts due in accordance with the requirements of the Funding Sources. The Mortgage(s) shall be subject to and subordinate to this Agreement. The City shall provide to the Funding Sources advance notice and opportunity to cure any default under this Agreement as provided in Section VI.A.2 of this Agreement and shall consent to the Funding Sources exercising any rights under their Mortgages and security agreements, including but not limited to rights to take title and or control of the Property and the Project, pursuant to Mortgage(s) and any other collateral security, financing or loan documents entered into between the Developer and any of the Funding Sources, so long as the Funding Sources shall recognize and agree to comply with the terms and provisions of this Agreement.

2. Refinancing/Additional Financing. The Developer shall provide the City with thirty (30) days prior written notice of any intended refinancing of the Funding Sources that is to occur prior to Substantial Completion, which shall be approved by the City provided that the total indebtedness shall not exceed \$_____ and that any refinancing is on terms equal to or more favorable than the Funding Sources. Any other refinancing or additional financing prior to Substantial Completion shall require the written consent of the City, which consent shall not unreasonably be withheld or denied. The term “Mortgage(s)” or “Funding Sources” shall include said later approved refinancing or additional financing.

3. Obligation to Pay Taxes and Assessments. The Developer shall pay or cause to be paid all taxes, assessments and other charges, fines and impositions attributable to the Property, which may attain a priority over the Mortgage(s), but this clause shall not be deemed to preclude Developer from contesting the validity or amount of such taxes, assessments, charges, fines or impositions, which may be paid under protest.

4. Payment and Performance Bonds. Prior to the commencement of any work on the Property, the Developer shall provide the City with a performance and labor and materials payment bond/letter of credit in an amount sufficient, in the City's reasonable determination, to complete the Project, from a surety acceptable to the City. In the event the Project as required by this Agreement is not completed within the time set forth in Section II.A.3 above (including any extensions thereof agreed upon by the parties), or if the Project is not completed substantially in accordance with the Approved Plans, the City may use the bond or the letter of credit to complete the Project in accordance with the Approved Plans.

5. Compliance with Laws. The Developer shall construct and use the Project in compliance with all applicable laws, regulations, approvals, licenses, and permits issued by any federal, state or local governmental authority having jurisdiction thereof.

6. Architect. The Developer has retained _____ to prepare, complete, and submit architectural submissions as contemplated under this Agreement and to provide construction supervision services for the Project. The Developer may not substitute another architect without the City's prior written consent, which shall not be unreasonably withheld.

7. Representatives. The Developer shall designate in writing a representative or representatives authorized to act on its behalf. Unless and until the City has received written notice that such authority has been revoked, the City shall be entitled to rely upon the directives of such representative(s). The City shall act by and through its _____.

III. RESTRICTIONS

A. Restrictions During Construction

From the date the parties enter into this Agreement and until the City has issued the Certificate of Substantial Completion, the following restrictions shall bind the Developer, the Property and the Project:

1. Prohibition Against Change in Identity and Ownership. This Agreement is being entered into as a means of permitting and encouraging the development of the Property in accordance with the objectives of the City for the redevelopment of the Property as put forward in the Recitals, and not for speculation in landholding. The Developer acknowledges that, in view of:

a) The importance of the undertakings set forth herein to the general welfare of the

community;

- b) The importance of the identity of the parties in control of the Developer and the Project; and
- c) The fact that a transfer of all or a majority of the legal or beneficial ownership in the Developer, or any other act or transaction involving or resulting in a significant change in the ownership or distribution of such ownership or change in the identity of the parties in control of the Developer or Project, is for practical purposes a transfer or disposition of the Developer's interest in the Project;

It is hereby understood and agreed that, until notice of a different designation by the Developer to the City, _____ is the Designated Representative of Developer. Except as otherwise provided herein, it is hereby agreed that, commencing on the date hereof and continuing until the issuance of the Certificate of Substantial Compliance by the City, and except by reason of death, there shall be no (i) change in the identity of the parties holding a legal or beneficial interest in the Developer, (ii) transfer or pledge in the aggregate of a majority of the beneficial ownership or control of Developer or (iii) transfer, by assignment or otherwise, of the Developer's rights under this Agreement or of the Developer's legal or beneficial interest in the Property to any person (including but not limited to, any partnership, joint venture or corporation) (all such changes being referred to herein as a "Change in Identity"), unless in each instance, (a) the Developer gives the City prior written notice of a proposed Change in Identity, which notice shall provide sufficient information to enable the City to evaluate the acceptability of the proposed Change in Identity, and (b) the City, within thirty (30) days from the date on which the City receives said written notice or such longer period as may be approved by the Developer and the City, approves of such change in writing, or fails to object, in which case the proposed Change in Identity shall be deemed to be approved. If the City notifies the Developer in writing within said thirty (30) day period (or longer period agreed to by the parties) of its objection to the proposed Change in Identity, specifying reasonable grounds for such objection, the Developer shall make no Change in Identity without the subsequent written consent of the City. Any attempted Change in Identity made contrary to this Section shall be void.

In order to fulfill the purposes of this Section, the Developer agrees that during the period between execution of the Agreement and the issuance of a Certificate of Substantial Completion by the City, the Developer shall, on each anniversary of the date of this Agreement and at such other time or times as the City may request, furnish the City with a complete statement, subscribed and sworn to by the Designated Representative of the Developer, setting forth the names of all of the partners or other stakeholders of the Developer and the extent of their respective interests, and provide copies of all records and documents of the Developer that show the identities of all those who have an interest (legal or beneficial, direct or indirect) in the Developer, the Property or the Project.

The foregoing restrictions on the Change in Identity shall not be binding on a mortgagee of the Property which has foreclosed its mortgage and taken possession of the Property.

2. Prohibition Against Transfer of Property. For all of the same reasons stated in Section III.A.1 above, the Developer represents and agrees for itself, and its successors and assigns, that, except for the granting of the Mortgages and the approved refinancing of the Mortgages, and entering into other customary security agreements with the Funding Sources, and the granting of easements necessary for the construction of the Project, including utilities, the Developer shall not sell, assign or otherwise transfer the Property or any portion thereof without the prior written consent of the City, which may be withheld in the City's sole and absolute discretion. The term "transfer" shall include, without limitation, any total or partial sale, mortgage, assignment, lease (not including the transfer or lease of residential units or transfer or lease of commercial space, if applicable, in the ordinary course of business), or contract or agreement for any of the same. It is the intent of this Section that the prohibition on transfer of the Property shall not apply to transfers resulting from the foreclosure of the Mortgages, provided that the transferee assumes and agrees to comply with all conditions and agreements contained in this Agreement and the Deed, including, but not limited to the obligation to construct the Project, as modified with the consent of the City to suit the transferee's needs, or exercises any of the other options set forth in Section V.2 below. No transfer shall relieve the Developer of its obligations hereunder, who shall be jointly and severally liable with the transferee. Any attempted assignment or other transfer made contrary to this Section shall be void.

Provided that, prior to the issuance by the City of the Certificate of Substantial Completion, the Developer may enter into any agreement to sell, lease, or otherwise transfer the Property after the issuance of the Certificate of Substantial Completion.

B. Restrictions Following Construction Completion

1. Restriction on Alterations. The Developer shall not, for a period of _____ () years from the issuance of the Certificate of Substantial Completion, alter, demolish, subtract therefrom, reconstruct, make any additions to the Building, or change the materials, design, dimensions or color thereof, if such reconstruction, demolition, subtraction, alteration, addition, extension or change will materially affect in any way the external appearance of the Building, make other changes to the design of the Building so as to deviate substantially from the Approved Plans, or alter the landscaping at the Property, unless the Developer first submits to the City a revised concept plan showing the proposed alterations at least forty-five (45) days prior to making such change and the City approves of such change in writing, or fails to object, so long as the notice provided to the City states that failure to respond within forty-five (45) days shall be deemed to be an approval, in which case the proposed alteration shall be deemed to be approved and the Developer shall proceed to obtain Planning Board approval for such alterations under the applicable provisions of the City Ordinances. If the City notifies the Developer in writing within said forty-five (45) day period (or longer period agreed to by the parties) of its objection to the proposed change, specifying reasonable grounds for such objection, the Developer shall revise said concept plan accordingly. Nothing herein shall be construed to prevent the ordinary maintenance, repair or replacement of any

exterior feature of the Building which does not involve a change in design, material or color of such exterior feature of the Building or otherwise change the outward appearance of the façade of the Building, nor to prevent landscaping the Property with plants, trees or shrubs, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition or to comply with any federal, state or local law, rule or regulation. This restriction shall survive the issuance of the Certificate of Substantial Completion.

2. Restrictions on Permitted Uses. The Developer shall not change the use of the Buildings, as set forth in Section V, below, without the City's prior written consent.

IV. MAINTENANCE AND INSURANCE

1. Maintenance; Hazardous Substances. The Developer shall maintain the Property and improvements thereon in good order, condition and repair. The Developer represents and warrants to the City that the Developer shall not release or permit any release or threat of release of oil, asbestos, urea formaldehyde foam insulation, nor any other hazardous material, hazardous waste or hazardous substance (hereinafter collectively called "hazardous substances"), as those terms are defined by any applicable law, rule or regulation including without limitation, the Massachusetts Oil and Hazardous Material Release Prevention and Response Act, G.L. c. 21E, the Massachusetts Hazardous Waste Management Act, G.L. c. 21C, the Comprehensive Environmental Response, Compensation and Liability Act, as amended, 42 U.S.C. Sections 9601 et seq., and the Resource Conservation and Recovery Act, as amended, 42 U.S.C. Sections 6901 et seq., nor generate or permit any hazardous substances to be generated on the Property; nor store or permit any hazardous substances to be stored on the Property.

2. Insurance. The Developer agrees to maintain the following insurance:

(a) *Type of Insurance:* the Developer shall continuously maintain in full force, for the term hereof, a policy of comprehensive casualty, and property damage insurance insuring the Property and all improvements thereto in an amount equal to at least one hundred percent (100%) of the replacement costs thereof, under which, until the issuance of the Certificate of Substantial Completion, the City shall be named as additional insured and under which the insurer agrees to defend, indemnify and hold the City harmless from and against all cost, expense and/or liability arising out of or based upon any and all claims, accidents, injuries and damages related to: the Project; the condition of the Property; any act or omission of the Developer, its contractors, licensees, agents, servants, employees, customers, invitees, guests or visitors, or anyone claiming by, through or under the Developer; and failure to comply with the provisions of this Agreement or with applicable laws in connection with the exercise of the rights and obligations of the Developer hereunder. All such insurance shall be in the broadest form of coverage from time to time available in Massachusetts. The Developer shall submit to the City evidence of such continuous insurance

coverage satisfactory to the City before any work is commenced on the Property and no less often than annually thereafter;

(b) *Minimum Limits:* the Developer shall, at a minimum, carry comprehensive public liability insurance in the amount of \$1,000,000.00/occurrence, \$3,000,000.00/aggregate with property damage liability insurance in limits of \$1,000,000.00/occurrence, \$3,000,000.00/aggregate. The City shall have the right to require the Developer to increase such limits when the minimum limits of liability insurance commonly and customarily carried on properties comparable to the Property by responsible owners are more or less generally increased, it being the intention of this sentence to require the Developer to take account of inflation in establishing minimum limits of liability insurance maintained from time to time on the Property;

(c) *Evidence of Insurance:* All policies shall be so written that the City shall be notified of cancellation or restrictive amendment at least thirty (30) days prior to the effective date of such cancellation or amendment. The Developer shall submit to the City certificates of insurance for all the policies required to be maintained by the Developer hereunder, which certificates shall show at least the coverage and limits of liability specified herein and the expiration date;

(d) *Acceptable Insurers:* all insurance required hereunder shall be underwritten with an insurance company or companies with an AM Best Rating of A-1 or better, licensed to write such insurance in the Commonwealth of Massachusetts and acceptable to the City.

3. Obligation to Restore. In the event that any damage or destruction of the Property or any part thereof occurs as a result of fire or other casualty, the Developer shall be responsible for the restoration of the Property to the extent of its insurance proceeds, provided, however, that if such damage or destruction is caused as a result of the gross negligence or willful act or omission of the Developer, or of any of its employees or agents, members, lessees, assignees, licensees or invitees, the Developer shall be responsible for the full restoration of the damaged or destroyed Property regardless of the cost thereof, the available insurance proceeds, or the time remaining on the term of this Agreement.

4. Indemnification: Developer agrees to defend, indemnify, and hold the City harmless from and against any and all liabilities, losses, costs, expenses (including attorneys' fees), causes of action, suits, claims, damages, demands, judgments or expenses from any and all claims, actions, or suits of any nature whatsoever that may be imposed upon, incurred by, or asserted against the City by reason of this Agreement. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses, and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof. The provisions of this Section shall survive the expiration or earlier termination of this LDA.

5. Survival. The provisions of this Section IV are additional restrictions that shall survive the issuance of the Certificate of Substantial Completion.

V. USE OF THE PROPERTY

1. Use of the Property. The Property shall be used for _____ purposes, with on-site parking facilities, the number of spaces to be determined by the Amesbury Zoning Ordinance and permits issued thereunder by the Planning Board.

2. Change in Use of Property. In the event that the Developer is unable to maintain one or more of the elements of the Development, for good and substantial cause(s), which cause(s) must be presented to the Planning Board/Office of the Mayor, with appropriate documentation supporting the basis for a proposed change in use, as well as a concept plan showing the proposed change, at least forty-five (45) days prior to making such change, and the Planning Board/Office of the Mayor approves of such cause and concept plan in writing, or fails to object, so long as the notice provided to the City states that failure to respond within forty-five (45) days shall be deemed to be an approval, in which case the proposed change shall be deemed to be approved and the Developer shall proceed to obtain approvals for such change under the applicable provisions of the Zoning Ordinance, if necessary. If the Planning Board/Office of the Mayor notifies the Developer in writing within said forty-five (45) day period (or longer period agreed to by the parties) of its objection to the reason proffered for the proposed change or the concept plan, specifying reasonable grounds for such objection, the Developer shall submit additional evidence relative to the cause and/or a revised concept plan accordingly, and the Planning Board/Office of the Mayor shall have an additional thirty (30) days to approve or disapprove the cause for the proposed change and/or the revised concept plan. Approvals hereunder shall be at the sole and absolute discretion of the Planning Board/Office of the Mayor.

3. Survival. The provisions of this Section V are additional restrictions that shall survive the issuance of the Certificate of Substantial Completion.

VI. NOTICE AND DEFAULT PROVISIONS

A. Default of Developer and Rights of Parties.

1. Developer Default. The following shall be an event of default by the Developer (referred to herein as “Developer Default”):

a. Failure by the Developer to observe or perform any of the Developer’s covenants, agreements, or obligations set forth in this Agreement within thirty (30) days following receipt of written notice from the City specifying such failure, or such longer period reasonably required to cure the breach, provided the cure was commenced reasonably promptly after receipt of said notice and continuously and diligently prosecuted (said cure period the “Developer Cure Period”);

b. Failure by the Developer, after all applicable cure periods, to observe or perform any of the Developer's covenants, agreements, or obligations pursuant to the requirements of the Funding Sources;

c. The sale or other transfer of any kind or nature of the Property, or any part thereof, other than a mortgage permitted hereunder, without the prior written consent of the City, provided such consent is required under this Agreement;

d. The issuance of any execution or attachment against Developer or any of Developer's property pursuant to which the Property shall be taken or occupied or attempted to be taken or occupied, provided that Developer is first provided an opportunity to cure the same within thirty (30) days unless extended by agreement of the parties;

e. The failure to pay real estate taxes or assessments on the Property or any part thereof when due, or there is placed on the Property a lien, including a materialmen's or mechanic's lien, or any other encumbrance unauthorized by this Agreement, provided that Developer is first provided an opportunity to cure the same within thirty (30) days;

f. The filing by Developer of a voluntary petition, or the filing against Developer of an involuntary petition, in bankruptcy or insolvency or adjudication of bankruptcy or insolvency of Developer, or the filing by Developer of any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or any future federal bankruptcy act, or any other present or future applicable federal, state, or other statute or law, or the assignment by Developer for the benefit of creditors, or appointment of a trustee, receiver, or liquidator of all or any part of the assets of Developer, and within one hundred twenty (120) days after the commencement of any such proceeding against Developer, such proceeding shall not have been dismissed, or if, within one hundred twenty (120) days after the appointment of any trustee, receiver, or liquidator of Developer or of all or any part of Developer's property, without the consent or acquiescence of Developer, such appointment shall not have been vacated or otherwise discharged; or

g. Breach by the Developer of the terms and provisions of the Restrictions.

2. Rights of City Upon Developer Default:

a. In the event of a Developer Default, the City may exercise its rights set forth in Section b, below, provided that:

(i) the City has delivered timely written notice of the Developer Default to the Mortgage Holder(s), whose name(s) and address(es) the Developer or the Mortgage Holder(s) has previously delivered to the City;

(ii) ninety (90) days have passed following delivery of said notice to the Mortgage Holder(s);

(iii) the Mortgage Holder(s) has failed to cause the default to be cured within said ninety (90) days, or in the event of a default that is not reasonably susceptible to cure within said ninety (90) day period, the Mortgage Holder has not commenced and continually prosecuted cure of said default (said cure period, the “Mortgage Holder Cure Period”); and

(iv) notice of Foreclosure has not been received by the City pursuant to Section VI.A.5.

b. Subject to the provisos set forth above, the City shall have the following rights in the event of a Developer Default:

1. (i) Right of Entry. In addition to all other rights and remedies available to the City hereunder, the City shall have the right to re-enter and take possession of the Property and to terminate and revest in the City the estate conveyed by the Deed to the Developer (the “Right of Entry”).

2.

3. (x) *Notice*. The City shall provide sixty (60) days’ written notice to the Developer of its intent to exercise its Right of Entry; if at the end of such notice period the Developer has not remedied the default, then the City may reenter the Property and retake all rights, title, interest and possession in and to the Property by executing and recording a certificate of entry with the Essex South District Registry of Deeds, such Right of Entry to be in addition to any other rights or remedies the City may have for a breach or default under this Agreement. Upon delivery of written notice from the City to the Developer notifying the Developer of the City’s decision to exercise its Right of Entry, the Developer (or its assigns or successors in interest) shall promptly transfer title to and possession of and re-convey by quitclaim deed such Property, together with all improvements thereon, to the City without cost to the City. Notwithstanding the foregoing, title to the Property shall revert to the City automatically upon the recording of said certificate of entry. The City’s Right of Entry shall not defeat, render invalid, or limit in any way the lien of any mortgage authorized by this Agreement.

(y) *Resale of Re-acquired Property/Disposition of Proceeds*. Upon the revesting in the City of title to the Property or any part thereof as provided herein, the City shall use its best efforts to resell the Property or part thereof (subject to such mortgage liens as are provided for herein) as soon and in such manner as the City shall find feasible, to a qualified and responsible party or parties (as determined by the City), who will assume the obligation of making or completing the Project or such other improvements in its stead as shall be satisfactory to the City and in accordance with the uses specified for

such Property or part thereof in this Agreement. Upon such resale of the Property, the proceeds thereof shall be applied as follows:

First, to reimburse the City for all costs and expenses, including but not limited to salaries of City personnel in connection with the re-acquisition, management and resale of the Property or part thereof (but less any income derived from the Property or part thereof in connection with such management); all taxes, assessments, and water and sewer charges with respect to the Property or part thereof or, in the event the Property is exempt from taxation or assessment or water and sewer charges during the period of ownership thereof by the City, an amount equal to such taxes, assessment, or charges (as determined by the appropriate City officials) as would have been payable if the Property were not so exempt; any payments made or necessary to be made to discharge any encumbrances or liens existing on the Property or part thereof at the time of reversion of title thereto in the City, or to prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer (or successors or assigns); any expenditures made or obligations incurred with respect to the making or completion of the Project on the Property or any part thereof, and any amounts otherwise owing the City by the Developer (or successors or assigns);

Second, in their respective order of priority, to pay any and all mortgage indebtedness authorized by this Agreement and to make all and whatever payments may be necessary to discharge any other encumbrances or liens existing or threatened on the Property, in favor of mechanics, materialmen or subcontractors;

Third, if there is any balance of proceeds remaining, to use the balance of the proceeds to reimburse the Developer (or successors or assigns) up to the amount equal to (i) the sum of the purchase price paid by it in cash (and not from the proceeds of a mortgage paid by the City to clear the title to the Property) for the Property, or prorated amount allocable to the part thereof, and the cash actually invested by it in making any of the improvements on the Property or part thereof, less (ii) any gains or income from the Property withdrawn by the Developer (or successors or assigns); and

Fourth, any balance remaining after such reimbursements shall be retained by the City as its property.

(z) *Termination of Right of Entry.* The Right of Entry shall terminate automatically upon the issuance of the Certificate of Substantial Compliance. Such Certificate of Substantial Compliance shall be (and it shall be so provided in the Certificate of Substantial Compliance itself) a conclusive determination of the termination of the City's Right of Entry. The termination of the City's Right of Entry shall not impair or otherwise affect the other provisions of this Agreement, which shall continue as stated herein.

(ii) Specific Performance. Whether prior to or subsequent to the issuance by the City of a Certificate of Substantial Completion, the City shall have the right to institute such action and proceedings as may be appropriate against the Developer, including actions

and proceedings to compel specific performance and to bring a claim in a court of competent jurisdiction seeking restitution from the Developer in an amount representing the City's costs, liabilities, losses and expenses resulting directly from the Developer Default.

3. Rights of Mortgage Holders Upon Developer Default. In the event of a Developer Default, any Mortgage Holder shall have the right to cure any such Developer Default within the Developer Cure Period, within the Mortgage Holder Cure Period, and other rights as provided in Section VI.D.

4. City's Option To Cure Developer Default. The City may, at its option, cure any Developer Default, in which case the City shall be entitled, in addition to and without limitation upon any other rights or remedies to which it shall be entitled by this Agreement, operation of law, or otherwise, to reimbursement from the Developer or successor in interest of all costs and expenses incurred by the City in curing such Developer Default.

5. Notice of Foreclosure. The Developer shall cause the Mortgage Holders to give not less than sixty (60) days prior written notice to the City, by registered mail, of each Mortgage Holder's intention to foreclose upon its Mortgage or to accept a conveyance of the Property in lieu of foreclosure, in which event the City shall have the right, but not the obligation, to cure whatever default(s) have entitled the Mortgage Holder to issue the foreclosure notice, subject to appropriation, which amount, together with the City's costs and expenses (including counsel fees) shall be added to the amounts due to the City pursuant to paragraph 4 above.

6. City's Option To Purchase Property Following Foreclosure. In the event that ownership of the Property has vested in a Mortgage Holder by way of foreclosure or action in lieu thereof, the City shall be entitled to (and every mortgage instrument made prior to Substantial Completion of the Work with respect to the Property by the Developer or successor in interest shall so provide), at the City's option, a conveyance to the City of the Property upon payment to such Mortgage Holder of an amount equal to the sum of: (i) the mortgage debt at the time of foreclosure or action in lieu thereof (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings, if any); (ii) all expenses with respect to the foreclosure; (iii) the net expense, if any (exclusive of general overhead), incurred by such Mortgage Holder in and as a direct result of the subsequent ownership or management of the Property; (iv) the costs of any improvements made by such holder; and (v) an amount equivalent to the interest that would have accrued to the date of payment on the aggregate of such amounts had all such amounts become part of the mortgage debt and such debt had continued in existence.

B. Default of Mortgage Holder.

Any Mortgage Holder in whom title to the Property has vested by way of foreclosure or action in lieu thereof shall be subject to the Developer Default provisions pursuant to

Section VI.A.1, above, and the City shall have the enforcement rights set forth in Section VI.A.2, above, as if the Mortgage Holder were the Developer, so that the Mortgage Holder shall receive notice of a Developer Default in its capacity as Developer and an additional notice in its capacity as Mortgage Holder, and shall have the benefit of all the cure periods set forth thereunder.

C. Default of City.

1. The following shall be an event of default by the City (referred to herein as “City Default”): The failure of the City to observe or perform any of the City’s covenants, agreements, or obligations hereunder within sixty (60) days following receipt of written notice from the Developer (or its successors or assigns, or any Mortgage Holder), specifying such failure, or such longer period reasonably required to cure the breach, provided the cure was commenced immediately after receipt of said notice and continuously and diligently prosecuted (said cure period, the “City Cure Period”);

2. Rights of Developer Upon City Default. In the event that a City Default has occurred, the Developer’s sole remedy shall be to institute an action to compel specific performance in a court of competent jurisdiction.

D. Mortgage Holder’s Option to Cure Developer Defaults.

After any Developer Default, each Mortgage Holder(s) shall have the right, at its option, to cure or remedy such breach or default and to add the cost thereof to the mortgage debt and the lien of its mortgage; provided, however, that if the breach or default is with respect to the Developer’s failure to construct the improvements in accordance with Project approvals, nothing contained within this Agreement shall be deemed to authorize or permit such Mortgage Holder, either before or after foreclosure or action in lieu thereof, to undertake or continue the construction or completion of the Work (beyond the extent necessary to conserve or protect improvements or construction already made) without first having expressly assumed the obligation to the City, by written agreement satisfactory to the City and any other party having a right to enforce this Agreement in the event of default, to complete in the manner provided in this Agreement, the Work. Any such Mortgage Holder which shall properly complete the Work or applicable part thereof shall be entitled, upon written request made to the City, to a Certificate of Substantial Completion in the manner provided in Section II.A.7.

VII. GENERAL PROVISIONS

A. Access. The Developer shall permit the City or its agents to enter the Property at any reasonable time, from time to time, to inspect the Property and to ensure compliance with the provisions of this Agreement, provided, however, that the City provides the Developer at least twenty-four (24) hours’ prior notice thereof, except in the event of an emergency.

B. Term. Unless expressly otherwise limited in time by the provisions of this Agreement, the restrictions and covenants contained in this Agreement shall have a term of _____ (____) years. The Developer agrees that this Agreement is an “other restriction held by a governmental body” as that term is used in G.L. c.184, §26 and thus not subject to the limitations on the enforceability of restrictions in G.L. c.184, §§26-30 and is enforceable for the full stated term of this Agreement. Nevertheless, if recording of a notice is ever needed to extend the time period for enforceability of this Agreement, the Developer hereby appoints the Mayor of the City as the Developer’s agent to execute and record such notice and agrees that the Developer shall execute and record such notice upon request.

C. Development Costs. The Developer shall be solely liable for all costs incurred in construction of all the Work required under this Agreement.

D. Cooperation. The City agrees to use reasonable efforts to assist the Developer in obtaining any and all permits, licenses, easements and other authorizations required by any governmental authorities with respect to any construction or other work to be performed on the Property, but the Developer acknowledges that the City has no control over and cannot guarantee that permits required from municipal boards or officers within their statutory or regulatory authority will be granted. Further, the City does hereby authorize the Developer, and its designees and assignees, to: (i) execute and file any and all applications for licenses, permits or approvals the Developer deems necessary, appropriate or convenient relating to the rehabilitation, development, construction, demolition and/or improvement of the Property and related Project parking, all as determined by Developer in its sole reasonable discretion; (ii) to appear before all applicable governmental authorities in support of any such applications; and, (iii) to take all action said Developer deems necessary, appropriate or convenient in connection with any of the foregoing. Moreover, at the request of Developer, the City shall execute all applications, documents and instruments, if any, required in connection with the transfer to Developer of the benefits of any zoning, wetland, land use, building code and other governmental permits and approvals affecting the Property.

E. Enforcement. The parties hereto, and thereafter the permitted successors and assigns of the parties hereto, covenant and agree that the losing party will reimburse the prevailing party for all reasonable costs and expenses (including without limitation attorney’s fees) incurred in enforcing (but not defending against the enforcement action of the other party) this Agreement or in remedying or abating any violation thereof, provided that no obligation shall arise under this section until a court of competent jurisdiction shall have determined that the party from whom reimbursement is being sought has violated this Agreement.

F. Indemnification/Liability. The Developer agrees to defend, indemnify, and hold the City harmless from and against any and all liabilities, losses, costs, expenses (including attorney’s fees), causes of action, suits, claims, damages, demands, judgments or expenses from any and all claims, actions, or suits of any nature whatsoever that may be imposed upon, incurred by, or asserted against the City by reason of this Agreement,

including, but not limited to, those arising from any release or threat of release of any hazardous materials which are placed on, in or under all of any portion of the Property, whether pre-existing or occurring after the date of this Agreement, but excepting for matters which are the result of the negligence or willful misconduct of the City or its employees or agents. This indemnity and hold harmless agreement shall include indemnity against all costs, expenses, and liabilities incurred in or in connection with any such claim or proceeding brought thereon, and the defense thereof.

G. Notices. Any and all notices required herein shall be in writing and shall be deemed properly given upon the earlier of: (1) two business days after deposit with the United States Postal Service, if sent by registered or certified mail, return receipt requested, postage prepaid; (ii) one business day after deposit with an express courier service such as Federal Express; or (iii) actual receipt. All such notices will be delivered to the address specified below or such other address as the respective parties may designate in writing:

if to Developer: _____

With a copy sent in the same manner to:

if to City: Office of the Mayor
Amesbury City Hall
62 Friend Street
Amesbury, MA 01913

With a copy sent in the same manner to:

Mark R. Reich, Esq.
KP Law, P.C.
101 Arch Street, 12th Floor
Boston, MA 02110

H. Notice of Mortgage Holders. The Developer shall, at all times, provide the City with an up-to-date list of names and addresses of Mortgage Holders. Any Mortgage Holder may also notify the City of its address.

I. Waiver. The failure on the part of the Developer or City, as the case may be, to complain in any one or more cases of any action or non-action on the part of the other party, or to insist in any one or more cases upon the performance of any of the provisions, covenants, agreements or conditions of this Agreement or to exercise any option contained herewith, no matter how long the same may continue, shall never be deemed or

construed to be a waiver by such party of any of its rights hereunder, or a relinquishment for the future of any such provision, covenant, agreement, condition or option. Further it is covenanted and agreed that no waiver at any time of any of the provisions hereof by the Developer or the City shall be construed as a waiver of any of the other provisions hereof, and that a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions.

J. Headings and Captions for Convenience Only. The captions and headings throughout this Agreement are for convenience of reference only and the words contained therein shall in no way be held or deemed to define, limit, explain, modify, amplify or add to the interpretation, construction or meaning of any provisions of, or the scope or intent of this Agreement, nor in any way affect this Agreement, and shall have no legal effect.

K. Binding. The terms of this Agreement shall be binding on the parties, and their respective successors and assigns. All covenants, agreements, terms and conditions of this Agreement shall be construed as covenants running with the land.

L. Entire Agreement of Parties; No Oral Agreement. There are no oral agreements between the parties hereto affecting this Agreement, and this Agreement supersedes any and all previous negotiations, arrangements, agreements, and undertakings, if any, between the parties hereto with respect to the subject matter hereof, and none thereof shall be used to interpret or construe this Agreement.

M. Governing Law. This Agreement shall be governed exclusively by the provisions of the laws of the Commonwealth of Massachusetts.

[Signature Page Follows]

WITNESS the above execution hereof under seal as of the day and year first above written.

CITY OF AMESBURY,

By: _____
Its Mayor

DEVELOPER

By: _____
Duly Authorized

567038/AMES/0001

H

4.

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 201_, before me, the undersigned Notary Public, personally appeared _____, Mayor of the City of Amesbury, as aforesaid, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, on behalf of the City of Amesbury.

Notary Public
My Commission Expires:

5.

6.

7.

COMMONWEALTH OF MASSACHUSETTS

Essex, ss.

On this _____ day of _____, 201_, before me, the undersigned Notary Public, personally appeared _____, _____ of _____, who proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose, on behalf of _____.

Notary Public
My Commission Expires:

Exhibits

Exhibit A: Approved Plans
Exhibit B: Construction Schedule
Exhibit C: Funding Sources

Exhibit A

Approved Plans

Exhibit B

Construction Schedule

Exhibit C

Funding Sources

Appendix C: Exhibits

8 LIST OF EXHIBITS

- A. Locus Map
- B. Assessor's Card
- C. City of Amesbury Vote to Surplus

Exhibit A: Locus Map

Horace Mann

December 12, 2016

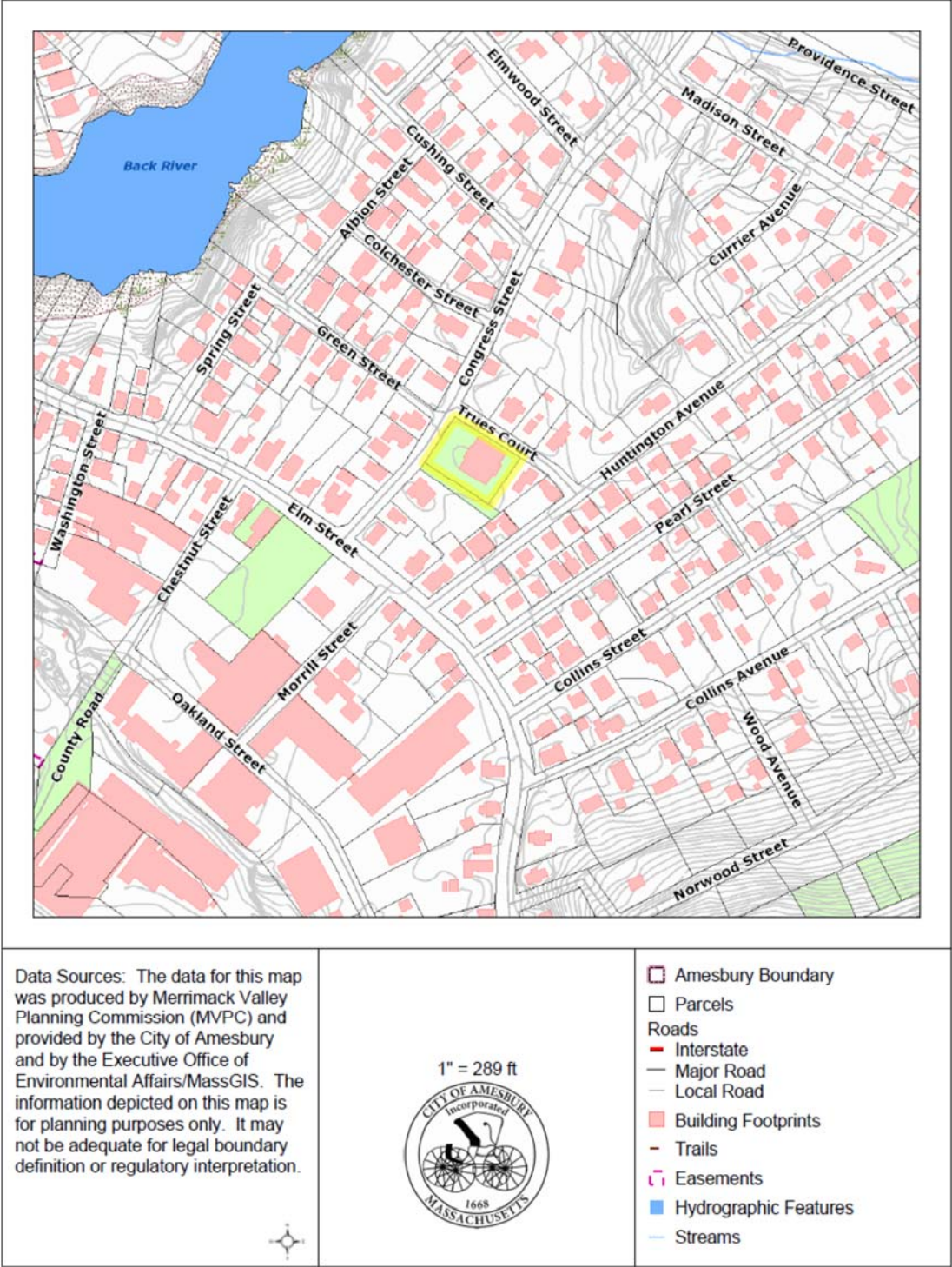




Exhibit B: Assessor's Card

10 CONGRESS ST

Location 10 CONGRESS ST

Assessment \$881,600

Mblu 54 / 14 /

PID 1742

Acct#

Building Count 1

Owner AMESBURY CITY OF

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2016	\$743,700	\$137,900	\$881,600

Owner of Record

Owner AMESBURY CITY OF
Co-Owner HORACE MANN SCHOOL
Address SCHOOL DEPT.
AMESBURY, MA 01913

Sale Price \$0
Certificate
Book & Page
Sale Date

Ownership History

Ownership History				
Owner	Sale Price	Certificate	Book & Page	Sale Date
AMESBURY CITY OF	\$0			

Building Information

Building 1 : Section 1

Year Built: 1900
Living Area: 13843
Replacement Cost: \$1,323,774
Building Percent 53
Good:
Replacement Cost
Less Depreciation: \$701,600

Building Attributes	
Field	Description
STYLE	Office
MODEL	Commercial
Grade	Average +20
Stories:	1.75
Occupancy	1

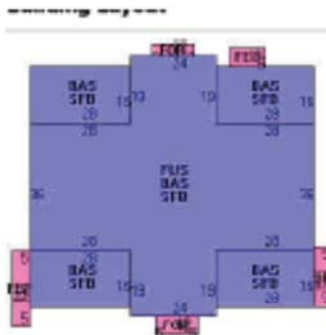
Building Photo



(<http://images.vgsl.com/photos/AmesburyMA/photos//00100181/>)

Building Layout

Exterior Wall 1	Brick/Masonry
Exterior Wall 2	
Roof Structure	Gable/Hip
Roof Cover	Slate
Interior Wall 1	Plastered
Interior Wall 2	Drywall/Sheet
Interior Floor 1	Hardwood
Interior Floor 2	Carpet
Heating Fuel	Oil
Heating Type	Forced Air-Duc
AC Type	None
Bldg Use	Education C
Total Rooms	
Total Bedrms	00
Total Baths	2
1st Floor Use:	9033
Heat/AC	NONE
Frame Type	MASONRY
Baths/Plumbing	AVERAGE
Ceiling/Wall	CEIL & WALLS
Rooms/Pitrs	AVERAGE
Wall Height	10
% Conn Wall	0



Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAV/1	PAV ASPH			12000 S.F.	\$26,600	1
FN1	FENCE CHN 4'			150 L.F.	\$2,100	1
FN2	FENCE CHN 5'			150 L.F.	\$2,400	1

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Exhibit C: Vote to Surplus



**CITY OF AMESBURY
IN THE YEAR TWO THOUSAND FOURTEEN**

Sponsored By: C. Kenneth Gray, Mayor Bill No. 2014-061

At the meeting of the Amesbury City Council held on May 13, 2014, in the City Hall Auditorium the following action was taken:

An Order to request the City Council vote to authorize the Mayor to surplus, procure a redevelopment proposal, and then sell the public property known as the Horace Mann Building being of approximately 13,844.3 square feet as located at 8-10 Congress Street, Amesbury, Massachusetts.

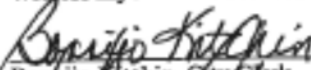
Identified as Map 54, Lots 14 and 14A by the City Assessor's Office. The site consists of 28,689 square feet (0.66 acre) of land, which consists of two tax parcels. The larger tax parcel contains 23,239 square feet with 127.2 feet of frontage on the southeast side of Congress Street and 182.15 feet on the southwest side of True's Court. This parcel is shown in Plan Book 1885, Plan 149, recorded in 1907 at the South Essex District Registry of Deeds and as further shown on the attached plan titled Subject Site from Assessors Records which is attached hereto and incorporated hereon by reference.

Summary: The Mayor seeks to sell and encourage redevelopment of the underutilized and vacant property to remove the obligation of maintenance costs and liability and to place the site on the tax rolls increasing revenue to the City. Such process of redevelopment shall involve the coordination with the neighborhood to ensure compatibility of the proposed use with the surrounding area.

Be it Ordained by the City Council of the City of Amesbury assembled and by the authority of the same name as follows: Pursuant to the provisions of G.L. c. 40, sec. 15A, and Chapter 30B section 16, the City Council hereby votes to transfer the property described herein currently held by the City to the Mayor for the purpose of disposition of the property for private redevelopment. Further, in accordance with MGLA Chapter 30B section 16, to facilitate such sale the City Council declares the rights of such property to be surplus and available for disposition by sale.

Councilor Kelcourse moved to accept 2014-061, An Order to request the City Council vote to authorize the Mayor to surplus, procure a redevelopment proposal, and then sell the public property known as the Horace Mann Building being of approximately 13,844.3 square feet as located at 8-10 Congress Street, Amesbury, Massachusetts as amended that the Disposition Committee for the applicable property shall be established before beginning the disposition process as outlined in the by-law. Councilor Bartley seconded. Roll Call Vote Unanimous -9 Yes.

Witness my hand and seal for the City of Amesbury this 16th day of May, 2014


Bonifio Kitchin, City Clerk


C. Kenneth Gray, Mayor

5/16/2014
Date



SUBJECT SITE FROM ASSESSOR'S RECORDS
(SUBJECT SHOWN IN GREEN)

Appendix D: Studies and Reports

Appendix E: Required Proposal Forms

REQUIRED PROPOSAL FORMS

<u>Form</u>	<u>Description</u>
1	Proposal Form
2	Price Proposal
3	Comparable Experience
4	Financial Qualifications
5	Certificate of Non-Collusion
6	Disclosure of Beneficial Interest Form
7	Certification as to Payment of Taxes
8	Corporate Resolution

Form 1: Proposal Submission Form
Horace Mann School Disposition

Proposer: _____

Development Team: Proposer must list and provide complete information about all members of the development team.

Proposer/Developer/Sponsor

Developer/Sponsor (Legal Name): _____

Form of Legal Entity: _____

Address: _____

Contact Person (Name): _____

Telephone: _____

Email: _____

Proposer, if a corporation or limited liability company, was organized on _____ (date) under the laws of the Commonwealth of Massachusetts. (Attach as Proposal Exhibit 1: Articles of Incorporation, Bylaws, Limited Liability Company Agreement, and all other organization documents. If Partnership, attach copy of Partnership Agreement.)

Corporation/Limited Liability Company

Legal Name: _____

Address: _____

Principals: _____

Contact Person (Name): _____

Telephone Number: _____

Email: _____

Has this entity been formed? () Yes () No

General Partnership

Legal Name: _____

Address: _____

Partners: _____

Contact Person (Name): _____

:

Telephone Number: _____

Email: _____

Has this entity been formed? () Yes () No

Limited Partnership

Legal Name:

Address:

General Partner:

Contact Person (Name):

Telephone Number:

Email:

Has this entity been formed? () Yes () No

Development Consultant

Legal Name:

Address:

Contact Person (Name):

Telephone Number:

Email:

Attorney

Legal Name:

Address:

Contact Person (Name):

Telephone Number:

Email:

Architect

Legal Name:

Address:

MA Registration:

Contact Person (Name):

Telephone Number:

Email:

Landscape Architect

Legal Name:

Address:

MA Registration:

Contact Person (Name):

Telephone Number:

Email:

Engineer

Legal Name:

Address:

MA Registration:

Contact Person (Name):

Telephone Number:

Email:

Other Role (Identify):

Legal Name:

Address:

Contact Person (Name):

Telephone Number:

Email:

Does any member of the development team have more than one role or function in the project? If yes, please explain.

() Yes () No

Form 2: Price Proposal
Horace Mann School Disposition
MUST BE SEALED IN A SEPARATE ENVELOPE

Mayor Gray
Office of the Mayor
Amesbury City Hall
62 Friend Street
Amesbury, Massachusetts 01913

This price summary form must be submitted with the Proposer's proposal. Failure to adhere to this instruction will result in disqualification of your proposal.

Name of Proposer: _____

Consideration Offered to City of Amesbury by the Proposer for Acquisition of the Property:

\$ _____
In Numbers

In Words

Signature

Name of Person Signing

Title

Form 3: Comparable Experience
Horace Mann School Disposition

Proposer: _____

Experience & References. Proposer must list and provide complete information about projects of comparable type and scale, developed by the Proposer in the Commonwealth of Massachusetts from 2009-present. Attach additional sheets if necessary.

Project Name: _____
Start/Completion Dates: _____ / _____ / _____ - _____ / _____ / _____
Type : ☐ Single-Family
☐ Two-Family/Multi-family
☐ Commercial or Mixed-Use
Total Development Costs: (\$) _____
City/Town: _____
Address: _____
Contact Person (Name): _____
Telephone: _____
Email: _____

Was this project carried out on property owned or controlled by the municipality?
() Yes () No

Identify members of the Proposer's development team who participated in the project, by name and role/responsibility.

<u>Development Team Member</u>	<u>Role/Responsibility</u>
_____	_____
_____	_____
_____	_____

Proposer: _____

Project Name: _____

Start/Completion Dates: _____ / _____ / _____ - _____ / _____ / _____

Type :
☐ Single-Family
☐ Two-Family/Multi-family
☐ Commercial or Mixed-Use

Total Development Costs: (\$) _____

City/Town: _____

Address: _____

Contact Person (Name): _____

Telephone: _____

Email: _____

Was this project carried out on property owned or controlled by the municipality?

() Yes () No

Identify members of the Proposer's development team who participated in the project, by name and role/responsibility.

Development Team Member

Role/Responsibility

Proposer: _____

Project Name: _____

Start/Completion Dates: _____ / _____ / _____ - _____ / _____ / _____

Type : ☐ Single-Family
☐ Two-Family/Multi-family
☐ Commercial or Mixed-Use

Total Development Costs: (\$) _____

City/Town: _____

Address: _____

Contact Person (Name): _____

Telephone: _____

Email: _____

Was this project carried out on property owned or controlled by the municipality?

() Yes () No

Identify members of the Proposer's development team who participated in the project, by name and role/responsibility.

Development Team Member

Role/Responsibility

Form 4: Financial Qualifications
Horace Mann School Disposition

Proposer: _____

Financial Information & Qualifications. Proposer must respond to all questions in this form.

8.2.1.1.1.1.1 Legal Status of Proposer (check one):

- | | | |
|--|--|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Nonprofit | <input type="checkbox"/> Individual |
| <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> General Partnership | <input type="checkbox"/> Limited Partnership |

Joint Venture (explain): _____

8.2.1.1.1.1.2 Has the Proposer, or any director, general partner, voting member, joint venturer or 10% or greater stockholder of the Proposer, ever been declared ineligible to participate in any governmentally sponsored development or construction program?

() Yes () No

If "Yes", please explain in depth.

8.2.1.1.1.1.3 Has the Proposer, or any director, officer, general partner, voting member, developer or affiliated entity, joint venturer, or 10% or greater stockholder of the Proposer, ever filed a petition of voluntary bankruptcy?

() Yes () No

8.2.1.1.1.1.4 Has there ever been filed a petition or involuntary bankruptcy against the Proposer, or any director, officer, general partner, voting member, developer or affiliated entity, joint venturer, or 10% or greater stockholder of the Proposer?

☐ Yes ☐ No

8.2.1.1.1.1.5 Has the Proposer, or any director, officer, general partner, voting member, developer or affiliated entity, joint venturer, or 10% or greater stockholder of the Proposer, ever made an assignment of assets for the benefit of creditors?

☐ Yes ☐ No

8.2.1.1.1.1.6 Are there any unsatisfied judgments outstanding against the Proposer, or any director, officer, general partner, voting member, developer or affiliated entity, joint venturer, or 10% or greater stockholder of the Proposer?

☐ Yes ☐ No

8.2.1.1.1.1.7 Has the Proposer been a party to any litigation within the last 5 years?

☐ Yes ☐ No

If "Yes" was answered to any of questions 3 through 7, please explain in depth.

Form 5: Certificate of Non-Collusion
Horace Mann School Disposition

The undersigned certifies under penalties of perjury that the bid or proposal submitted relative to this project is in all respects bona fide, fair and made without collusion or fraud with any other person, joint venture, partnership, corporation or other business or legal entity.

(Name of person signing bid)

(Company)

(Date)

Form 6: Disclosure Statement for Transaction with a Public Agency Concerning Real
Property

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL
PROPERTY**

M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

(1) Real Property:

(2) Type of Transaction, Agreement, or Document:

Sale by City of Amesbury

(3) Public Agency Participating in Transaction:

City of Amesbury

(4) Disclosing Party's Name and Type of Entity (if not an individual):

(5) Role of Disclosing Party (Check appropriate role):

____ Lessor/Landlord ____ Lessee/Tenant

____ Seller/Grantor ____ Buyer/Grantee

____ Other (Please describe): _____

(6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

(7) None of the above- named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (insert “none” if none):

(8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

(9) This Disclosure Statement is hereby signed under penalties of perjury.

Print Name of Disclosing Party (from Section 4, above)

Authorized Signature of Disclosing Party

Date (mm / dd / yyyy)

Print Name & Title of Authorized Signer

Form 7: Certification as to Payment of Taxes
Horace Mann School Disposition

Pursuant to G.L. c.62C, Section 49A, I, _____, hereby certify under the pains and penalties of perjury that _____ (Proposer) has complied with all laws of the Commonwealth of Massachusetts relating to the payment of taxes and has filed all state tax returns and paid all state taxes required under law.

Date

Signature of Authorized
Representative of Proposer

Social Security Number or
Federal ID Number of Proposer

Title

Form 8: Corporate Resolution
Horace Mann School Disposition
(to be filed if Proposer is a Corporation)

I, _____, hereby certify that I am the duly qualified and
(Secretary of the Corporation)

acting Secretary of _____ and I further
certify (Name of Corporation)

that a meeting of the Directors of said Company, duly called and held on

_____,
(Date of Meeting)

at which all Directors were present and voting, the following individuals:

were duly authorized and empowered to execute and submit proposals in response to a
Request for Proposals from the City of Amesbury on behalf of the Corporation.

I further certify that the above authority is still in effect and has not changed or modified
in any respect.

By: _____
(Secretary of Corporation)

A True Copy:

Attest: _____
(Notary Public)

My Commission Expires: _____
(Date)